

SENATE BILL NO. 138 *Primmer*

INTRODUCED BY

Morgan Rose

Anten

HARP

William Beck Anderson *Rob Grunstein*

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TAXATION OF 1 ACRE OF AGRICULTURAL LAND BENEATH CERTAIN IMPROVEMENTS FROM RESIDENTIAL TO AGRICULTURAL; AMENDING SECTIONS 15-6-134 AND 15-7-202, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. 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 (1)(b), and (1)(e) is taxed at 3.86% of its market value.

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

4	Income	Income	Percentage
5	Single Person	Married Couple	Multiplier
6		Head of Household	
7	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
8	1,001 - 2,000	1,201 - 2,400	10%
9	2,001 - 3,000	2,401 - 3,600	20%
10	3,001 - 4,000	3,601 - 4,800	30%
11	4,001 - 5,000	4,801 - 6,000	40%
12	5,001 - 6,000	6,001 - 7,200	50%
13	6,001 - 7,000	7,201 - 8,400	60%
14	7,001 - 8,000	8,401 - 9,600	70%
15	8,001 - 9,000	9,601 - 10,800	80%
16	9,001 - 10,000	10,801 - 12,000	90%

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

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

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

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

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

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

30 ~~(4)(3)~~ Within the meaning of comparable property as defined in 15-1-101, property assessed as

1 commercial property is comparable only to other property assessed as commercial property, and property
 2 assessed as other than commercial property is comparable only to other property assessed as other than
 3 commercial property."

4
 5 **Section 2.** Section 15-7-202, MCA, is amended to read:

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

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

17 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are
 18 eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

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

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

22 (c) For the purposes of this subsection (1), ~~"marketing";~~

23 (i) "marketing" means the selling of agricultural products produced by the land and includes but
 24 is not limited to:

25 ~~(A)~~ rental or lease of the land as long as the land is actively used for grazing livestock or for other
 26 agricultural purposes; and

27 ~~(B)~~ rental payments made under the federal conservation reserve program or a successor to that
 28 program;

29 (ii) land is not considered to be devoted to residential use if the residential improvements on the land
 30 are occupied by the owner or the owner's agricultural agent, employee, or lessee or by other persons

1 engaged in agricultural production for the owner.

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

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

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

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

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

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

19 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
20 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for
21 which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c).
22 If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued,
23 assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does
24 not mean revaluation pursuant to 15-7-111.

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

26 (8) Subject to the provisions of subsections (1), (2)(a), and (2)(b), property upon which sod,
27 ornamental, nursery, or horticultural crops are raised, grown, or produced must consist of at least 10 acres
28 before the property is eligible to be classified as agricultural land. Improvements devoted to crop production
29 described in this subsection may not be included in class eleven property."
30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0138, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act changing the taxation of 1 acre of agricultural land beneath certain improvements from residential to agricultural; and providing an applicability date.

ASSUMPTIONS:

1. There are approximately 40,500 1 acre parcels currently in class four property that would be reclassified as class three property. Average appraised value of these parcels is \$3,930. The taxable rate for class four property is 3.86%.
2. Average appraised value of the affected property when classified as class three would be \$28 (the statewide average appraised value of grazing land in 1994). The taxable rate of class three property is 3.86%.
3. Mill levies applied to the impacted property are estimated to be 6 mills for the university system, 95 mills for state equalization, 76.36 mills for county governments, and 158.54 mills for local schools.

FISCAL IMPACT:

Expenditures:

The proposal has no impact on Department of Revenue expenditures.

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
University System	0	\$ (36,600)
State Equalization	0	(579,500)
Total	0	\$ (616,100)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal results in a reduction of property tax revenues of \$466,000 for county governments and \$967,000 for local schools in FY97 and subsequent fiscal years.

Dave Lewis 1-19-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 KEN MESAROS, PRIMARY SPONSOR DATE
 Fiscal Note for SB0138, as introduced

SB 138

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0138, 2nd reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act changing the taxation of 1 acre of agricultural land beneath certain improvements from residential to agricultural; and providing an applicability date.

ASSUMPTIONS:

1. There are approximately 40,500 1 acre parcels currently in class four property that would be reclassified as class three property. Average appraised value of these parcels is \$3,930. The taxable rate for class four property is 3.86%.
2. Average appraised value of the affected property when classified as class three would be \$980.25. The taxable rate of class three property is 3.86%.
3. Mill levies applied to the impacted property are estimated to be 6 mills for the university system, 95 mills for state equalization, 76.36 mills for county governments, and 158.54 mills for local schools.

FISCAL IMPACT:

Expenditures:

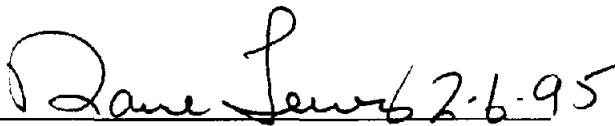
The proposal has no impact on Department of Revenue expenditures.

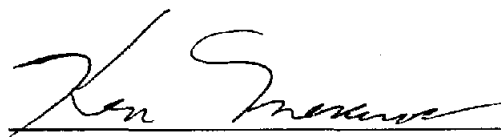
Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
University System	0	\$(27,668)
<u>State Equalization</u>	<u>0</u>	<u>(438,078)</u>
Total	0	\$(465,746)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal results in a reduction of property tax revenues of \$352,000 for county governments and \$731,083 for local schools in FY97 and subsequent fiscal years.


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


 KEN MESAROS, PRIMARY SPONSOR DATE
 Fiscal Note for SB0138, 2nd reading

SB 138-#2

1 SENATE BILL NO. 138

2 INTRODUCED BY MESAROS, ROSE, JENKINS, HARP, DEVLIN, BECK, ANDERSON, DEBRUYCKER,
3 CRISMORE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TAXATION OF 1 ACRE OF AGRICULTURAL
6 LAND BENEATH CERTAIN IMPROVEMENTS FROM RESIDENTIAL TO AGRICULTURAL; AMENDING
7 SECTIONS 15-6-134, ~~AND~~ 15-7-202, AND 15-7-206, MCA; AND PROVIDING AN APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 15-6-134, MCA, is amended to read:

12 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property
13 includes:

- 14 (a) all land except that specifically included in another class;
- 15 (b) all improvements, including trailers or mobile homes used as a residence, except those
16 specifically included in another class;
- 17 (c) the first \$80,000 or less of the market value of any improvement on real property, including
18 trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and
19 actually occupied for at least 10 months a year as the primary residential dwelling of any person whose
20 total income from all sources, including net business income and otherwise tax-exempt income of all types
21 but not including social security income paid directly to a nursing home, is not more than \$10,000 for a
22 single person or \$12,000 for a married couple or a head of household, as adjusted according to subsection
23 (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary
24 operating expenses but before deducting depreciation or depletion allowance, or both.

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

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

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

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

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

5	Income	Income	Percentage
6	Single Person	Married Couple	Multiplier
7		Head of Household	
8	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
9	1,001 - 2,000	1,201 - 2,400	10%
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11	3,001 - 4,000	3,601 - 4,800	30%
12	4,001 - 5,000	4,801 - 6,000	40%
13	5,001 - 6,000	6,001 - 7,200	50%
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16	8,001 - 9,000	9,601 - 10,800	80%
17	9,001 - 10,000	10,801 - 12,000	90%

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

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

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

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

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

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

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

5

6 **Section 2.** Section 15-7-202, MCA, is amended to read:

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

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

18 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are
 19 eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

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

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

23 (c) For the purposes of this subsection (1), ~~"marketing"~~:

24 (i) "marketing" means the selling of agricultural products produced by the land and includes but
 25 is not limited to:

26 ~~(A)~~ rental or lease of the land as long as the land is actively used for grazing livestock or for other
 27 agricultural purposes; and

28 ~~(B)~~ rental payments made under the federal conservation reserve program or a successor to that
 29 program;

30 (ii) ~~land is not considered to be devoted to residential use if the residential improvements on the land~~

1 ~~are occupied by the owner or the owner's agricultural agent, employee, or lessee or by other persons~~
 2 ~~engaged in agricultural production for the owner~~ LAND THAT IS DEVOTED TO RESIDENTIAL USE OR THAT
 3 IS USED FOR AGRICULTURAL BUILDINGS AND IS INCLUDED IN OR IS CONTIGUOUS TO LAND UNDER
 4 THE SAME OWNERSHIP THAT IS CLASSIFIED AS AGRICULTURAL LAND MUST BE CLASSIFIED AS
 5 AGRICULTURAL LAND, AND THE LAND MUST BE VALUED AS PROVIDED IN 15-7-206.

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

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

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

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

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

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

23 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
 24 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for
 25 which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c).
 26 If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued,
 27 assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does
 28 not mean revaluation pursuant to 15-7-111.

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

30 (8) Subject to the provisions of subsections (1), (2)(a), and (2)(b), property upon which sod,

1 ornamental, nursery, or horticultural crops are raised, grown, or produced must consist of at least 10 acres
2 before the property is eligible to be classified as agricultural land. Improvements devoted to crop production
3 described in this subsection may not be included in class eleven property."
4

5 **SECTION 3. SECTION 15-7-206, MCA, IS AMENDED TO READ:**

6 "15-7-206. **Improvements on agricultural land.** (1) In determining the total area of land actively
7 devoted to agricultural use, there ~~shall be~~ is included the area of all land under barns, sheds, silos, cribs,
8 greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

9 (2) One acre of land beneath agricultural improvements on agricultural land, as described in
10 15-7-202(1)(c)(ii), is valued at the class with the highest productive value and production capacity of
11 agricultural land."
12

13 **NEW SECTION. Section 4. Applicability.** [This act] applies to tax years beginning after December
14 31, 1995.

15 -END-

SENATE BILL NO. 138

INTRODUCED BY MESAROS, ROSE, JENKINS, HARP, DEVLIN, BECK, ANDERSON, DEBRUYCKER,
CRISMORE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TAXATION OF 1 ACRE OF AGRICULTURAL
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SECTIONS 15-6-134, ~~AND 15-7-202, AND 15-7-206~~, MCA; AND PROVIDING AN APPLICABILITY DATE
AND A CONTINGENT VOIDNESS PROVISION."

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

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"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property
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(a) all land except that specifically included in another class;

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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
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purpose, that consist of at least 9 holes and not less than 3,000 lineal yards; and

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23 of 1986; and

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

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25 (i) "marketing" means the selling of agricultural products produced by the land and includes but
 26 is not limited to:

27 ~~(A)~~ rental or lease of the land as long as the land is actively used for grazing livestock or for other
 28 agricultural purposes; and

29 ~~(B)~~ rental payments made under the federal conservation reserve program or a successor to that
 30 program;

1 ~~(ii) land is not considered to be devoted to residential use if the residential improvements on the land~~
2 ~~are occupied by the owner or the owner's agricultural agent, employee, or lessee or by other persons~~
3 ~~engaged in agricultural production for the owner~~ LAND THAT IS DEVOTED TO RESIDENTIAL USE OR THAT
4 IS USED FOR AGRICULTURAL BUILDINGS AND IS INCLUDED IN OR IS CONTIGUOUS TO LAND UNDER
5 THE SAME OWNERSHIP THAT IS CLASSIFIED AS AGRICULTURAL LAND MUST BE CLASSIFIED AS
6 AGRICULTURAL LAND, AND THE LAND MUST BE VALUED AS PROVIDED IN 15-7-206.

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

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

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

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

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

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

24 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
25 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for
26 which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c).
27 If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued,
28 assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does
29 not mean revaluation pursuant to 15-7-111.

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



HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 4

Mr. Speaker: We, the committee on Taxation report that Senate Bill 138 (third reading copy -- blue) be concurred in as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard".

Chase Hibbard, Chair

Carried by: Rep. Hibbard

And, that such amendments read:

1. Title, line 5.

Following: "ACT"

Insert: "REVISING THE TAXATION OF CERTAIN LAND BY"

Strike: "TAXATION"

Insert: "CLASSIFICATION"

Following: "ACRE OF"

Insert: "QUALIFYING"

2. Title, line 6.

Following: "AGRICULTURAL"

Insert: "AND CLARIFYING THE VALUATION OF LAND DESCRIBED IN SECTION 15-6-133(1)(C), MCA"

3. Title, line 7.

Following: "SECTIONS"

Insert: "15-6-133,"

Strike: "AND"

Following: "15-7-206"

Insert: ", AND 15-7-221"

Following: "PROVIDING AN"

Insert: "IMMEDIATE EFFECTIVE DATE, AND"

Strike: "DATE"

Insert: "DATES"

Committee Vote:

Yes 19, No 1.

SB 138
HOUSE

661432SC.Hbk

4. Title, line 8.

Strike: "AND" through "PROVISION"

5. Page 1, line 30.

Following: "value"

Insert: ", including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value"

6. Page 4, line 5.

Following: "LAND"

Insert: ", other than land described in 15-6-133(1)(c)"

7. Page 5, line 13.

Insert: "**Section 4.** Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b); the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1). The land may not be devoted to a commercial or industrial purpose.

(2) Class three property is taxed at the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a).

(3) The land described in subsection (1)(c) is valued at the productive capacity value of grazing land, at a ~~production level set by the department~~ the average grade of grazing land, and the taxable value is computed by multiplying the value by

seven times the taxable rate for agricultural land."

Section 5. Section 15-7-221, MCA, is amended to read:

"15-7-221. **Phase in of the taxable value of agricultural land.** The increase or decrease in taxable value of agricultural land resulting from the change in the method of determining productive capacity value under 15-7-201 must be phased in beginning January 1, 1994, as follows:

(1) For the year beginning January 1, 1994, and ending December 31, 1994, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 25% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(2) For the year beginning January 1, 1995, and ending December 31, 1995, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 50% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(3) For the year beginning January 1, 1996, and ending December 31, 1996, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 75% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(4) Beginning January 1, 1997, the taxable value of agricultural land in each land use and production category is equal to 100% of the productive capacity value of agricultural land determined under 15-7-201 times the class three tax rate.

(5) This section does not apply to land described in 15-6-133(1)(c)."

Renumber: subsequent sections

8. Page 5, lines 14 through 18.

Strike: section 4 in its entirety

Renumber: subsequent sections

9. Page 5, line 20.

Strike: "[This act] applies"

Insert: "(1) [Sections 1 through 3] apply"

10. Page 5.

Following: line 21

Insert: "(2) [Sections 4 and 5] apply retroactively, within the

meaning of 1-2-109, to tax years beginning after December 31, 1994.

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

-END-

1 SENATE BILL NO. 138

2 INTRODUCED BY MESAROS, ROSE, JENKINS, HARP, DEVLIN, BECK, ANDERSON, DEBRUYCKER,
3 CRISMORE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF CERTAIN LAND BY CHANGING
6 THE TAXATION CLASSIFICATION OF 1 ACRE OF QUALIFYING AGRICULTURAL LAND BENEATH CERTAIN
7 IMPROVEMENTS FROM RESIDENTIAL TO AGRICULTURAL AND CLARIFYING THE VALUATION OF LAND
8 DESCRIBED IN SECTION 15-6-133(1)(C), MCA; AMENDING SECTIONS 15-6-133, 15-6-134, AND
9 15-7-202, AND 15-7-206, AND 15-7-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AND
10 APPLICABILITY DATE DATES AND A CONTINGENT VOIDNESS PROVISION."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 15-6-134, MCA, is amended to read:

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

17 (a) all land except that specifically included in another class;

18 (b) all improvements, including trailers or mobile homes used as a residence, except those
19 specifically included in another class;

20 (c) the first \$80,000 or less of the market value of any improvement on real property, including
21 trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and
22 actually occupied for at least 10 months a year as the primary residential dwelling of any person whose
23 total income from all sources, including net business income and otherwise tax-exempt income of all types
24 but not including social security income paid directly to a nursing home, is not more than \$10,000 for a
25 single person or \$12,000 for a married couple or a head of household, as adjusted according to subsection
26 (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary
27 operating expenses but before deducting depreciation or depletion allowance, or both.

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

30 (e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural

1 ~~land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1~~
 2 ~~acre must be valued at market value, INCLUDING 1 ACRE OF REAL PROPERTY BENEATH IMPROVEMENTS~~
 3 ON LAND DESCRIBED IN 15-6-133(1)(C). THE 1 ACRE MUST BE VALUED AT MARKET VALUE.

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

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

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

9	Income	Income	Percentage
10	Single Person	Married Couple	Multiplier
11		Head of Household	
12	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
13	1,001 - 2,000	1,201 - 2,400	10%
14	2,001 - 3,000	2,401 - 3,600	20%
15	3,001 - 4,000	3,601 - 4,800	30%
16	4,001 - 5,000	4,801 - 6,000	40%
17	5,001 - 6,000	6,001 - 7,200	50%
18	6,001 - 7,000	7,201 - 8,400	60%
19	7,001 - 8,000	8,401 - 9,600	70%
20	8,001 - 9,000	9,601 - 10,800	80%
21	9,001 - 10,000	10,801 - 12,000	90%

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

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

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

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

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

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

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

9
10 **Section 2.** Section 15-7-202, MCA, is amended to read:

11 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land
12 totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as
13 agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

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

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

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

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

27 (c) For the purposes of this subsection (1), ~~"marketing"~~:

28 (i) "marketing" means the selling of agricultural products produced by the land and includes but
29 is not limited to:

30 ~~(A)~~ rental or lease of the land as long as the land is actively used for grazing livestock or for other

1 agricultural purposes; and

2 ~~###(B)~~ rental payments made under the federal conservation reserve program or a successor to that
3 program;

4 ~~(ii) land is not considered to be devoted to residential use if the residential improvements on the land
5 are occupied by the owner or the owner's agricultural agent, employee, or lessee or by other persons
6 engaged in agricultural production for the owner.~~ LAND THAT IS DEVOTED TO RESIDENTIAL USE OR THAT
7 IS USED FOR AGRICULTURAL BUILDINGS AND IS INCLUDED IN OR IS CONTIGUOUS TO LAND UNDER
8 THE SAME OWNERSHIP THAT IS CLASSIFIED AS AGRICULTURAL LAND, OTHER THAN LAND DESCRIBED
9 IN 15-6-133(1)(C), MUST BE CLASSIFIED AS AGRICULTURAL LAND, AND THE LAND MUST BE VALUED
10 AS PROVIDED IN 15-7-206.

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

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

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

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

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

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

28 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
29 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for
30 which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c).

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

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

5 (8) Subject to the provisions of subsections (1), (2)(a), and (2)(b), property upon which sod,
6 ornamental, nursery, or horticultural crops are raised, grown, or produced must consist of at least 10 acres
7 before the property is eligible to be classified as agricultural land. Improvements devoted to crop production
8 described in this subsection may not be included in class eleven property."
9

10 **SECTION 3. SECTION 15-7-206, MCA, IS AMENDED TO READ:**

11 "15-7-206. **Improvements on agricultural land.** (1) In determining the total area of land actively
12 devoted to agricultural use, there ~~shall be~~ is included the area of all land under barns, sheds, silos, cribs,
13 greenhouses, and like structures, lakes, dams, ponds, streams, irrigation ditches, and like facilities.

14 (2) One acre of land beneath agricultural improvements on agricultural land, as described in
15 15-7-202(1)(c)(iii), is valued at the class with the highest productive value and production capacity of
16 agricultural land."
17

18 **SECTION 4. SECTION 15-6-133, MCA, IS AMENDED TO READ:**

19 "15-6-133. **Class three property -- description -- taxable percentage.** (1) Class three property
20 includes:

21 (a) agricultural land as defined in 15-7-202;

22 (b) nonproductive patented mining claims outside the limits of an incorporated city or town held
23 by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes
24 of this subsection (1)(b), the following provisions apply:

25 (i) The claim may not include any property that is used for residential purposes, recreational
26 purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the
27 surface of which is being used for other than mining purposes or has a separate and independent value for
28 other purposes.

29 (ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise
30 provided in this title, including that portion of the land upon which the improvements are located and that

1 is reasonably required for the use of the improvements.

2 (iii) Nonproductive patented mining claim property must be valued as if the land were devoted to
3 agricultural grazing use.

4 (c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not
5 eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1). The land may not
6 be devoted to a commercial or industrial purpose.

7 (2) Class three property is taxed at the taxable percentage rate applicable to class four property,
8 as provided in 15-6-134(2)(a).

9 (3) The land described in subsection (1)(c) is valued at the productive capacity value of grazing
10 land, at a ~~production level set by the department~~ the average grade of grazing land, and the taxable value
11 is computed by multiplying the value by seven times the taxable rate for agricultural land."

12

13 **SECTION 5. SECTION 15-7-221, MCA, IS AMENDED TO READ:**

14 **"15-7-221. Phase in of the taxable value of agricultural land.** The increase or decrease in taxable
15 value of agricultural land resulting from the change in the method of determining productive capacity value
16 under 15-7-201 must be phased in beginning January 1, 1994, as follows:

17 (1) For the year beginning January 1, 1994, and ending December 31, 1994, the taxable value of
18 agricultural land in each land use and production category must increase or decrease from the December
19 31, 1993, value by 25% of the difference between the product of the productive capacity value of
20 agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value
21 of agricultural land as of December 31, 1993.

22 (2) For the year beginning January 1, 1995, and ending December 31, 1995, the taxable value of
23 agricultural land in each land use and production category must increase or decrease from the December
24 31, 1993, value by 50% of the difference between the product of the productive capacity value of
25 agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value
26 of agricultural land as of December 31, 1993.

27 (3) For the year beginning January 1, 1996, and ending December 31, 1996, the taxable value of
28 agricultural land in each land use and production category must increase or decrease from the December
29 31, 1993, value by 75% of the difference between the product of the productive capacity value of
30 agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value

1 of agricultural land as of December 31, 1993.

2 (4) Beginning January 1, 1997, the taxable value of agricultural land in each land use and
3 production category is equal to 100% of the productive capacity value of agricultural land determined under
4 15-7-201 times the class three tax rate.

5 (5) This section does not apply to land described in 15-6-133(1)(c)."

6

7 ~~NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IN ORDER TO MAINTAIN A BALANCED~~
8 ~~BUDGET, BECAUSE [THIS ACT] REDUCES REVENUE, IT MAY NOT BE TRANSMITTED TO THE GOVERNOR~~
9 ~~UNLESS A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS CONTAINED IN HOUSE BILL NO.~~
10 ~~2. IF A CORRESPONDING IDENTIFIED REDUCTION IN SPENDING IS NOT CONTAINED IN HOUSE BILL NO.~~
11 ~~2, [THIS ACT] IS VOID.~~

12

13 NEW SECTION. Section 6. Applicability. [This act] applies (1) [SECTIONS 1 THROUGH 3] APPLY
14 to tax years beginning after December 31, 1995.

15 (2) [SECTIONS 4 AND 5] APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO TAX
16 YEARS BEGINNING AFTER DECEMBER 31, 1994.

17

18 NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
19 APPROVAL.

20

-END-