FISCAL NOTE

Bill #:	HB319	**Title:**	Constitutional amendment to freeze certain residential property taxes
Primary Sponsor:	Gary MacLaren	**Status:**	As Introduced

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 Difference	**FY 2007 Difference**
Expenditures:		
General Fund		
State Special Revenue		
Revenue:		
General Fund		
State Special Revenue		
Net Impact on General Fund Balance:		

☒ Significant Local Gov. Impact
☐ Included in the Executive Budget
☐ Dedicated Revenue Form Attached
☒ Technical Concerns
☒ Significant Long-Term Impacts
☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. This bill would refer to the qualified electors of Montana an amendment to Article VIII, Section 3 of the Montana Constitution that would authorize the Montana Legislature to adopt laws providing for the *acquisition value approach* to valuation for owner-occupied residential properties for property tax purposes. Under this approach, qualifying residential properties would have as their base value the tax year 2004 value being used for property tax purposes. The value for property tax purposes would change only when the property sold, and the value at which the property sold for would be established as the new value for tax purposes, the value would be reset each time the property was sold in subsequent years.
2. This proposal is to be submitted to the voters at the November 2006 general election. If passed, the earliest that the legislature could provide for the acquisition value approach would be in legislation passed during the 2007 regular legislative session; that could make the acquisition value approach applicable to tax year 2007 at the very earliest. (This also assumes that the Department of Revenue (DOR) would be able to convert its property assessment computer systems and other assessment functions in a timely manner to accommodate the acquisition value approach for tax year 2007.)

3. Consequently, because property tax bills based on the acquisition value approach would not be paid until November of 2007 at the earliest, any revenue impacts from this proposal would not occur until after the 2007 biennium. Revenue impacts in future years will depend on: voter approval of the referendum in the November 2006 election; passage of enabling legislation by the Montana Legislature in a legislative session following the November 2006 vote; and a companion bill providing for the implementation of acquisition value approach.
4. The bill by itself does not have any direct administrative cost impacts; however, a companion bill that provides for implementation of the new property tax system will have significant impacts. Because DOR would still need to maintain the current system for property valuations of non-owner occupied dwellings and commercial real property of class 4, along with an additional system for the assessment functions from the current market value approach to the acquisition value approach for certain residential property, the cost would be significant. These costs would have to be approved by future legislative assemblies.
5. Common issues with moving toward an acquisition value approach to valuing property:
   - Acquisition value provides stability on the assessed value of property for property owners that do not sale their property. However, local mill levies which have increased by 25% since tax year 2000 could continue to increase, which would continue to increase property tax liability at the same rate. Under current law, a property with average (or below average) growth will not have an increase in property tax liability unless local mill levies are increased.
   - Similar property will be taxed differently over time. Similarly situated taxpayers could have significant different tax liabilities while requiring the same level of services.
   - Adjustments need to be made to 15-7-301 – 311, MCA, the Realty Transfer Act. The Realty Transfer is the source or ownership changes, splits, and sales data used by the DOR. It does not currently contain the information required for implementation of an acquisition approach to valuation. Additionally, since property assessment information is public information, when a home is sold and assessed under the acquisition value approach, the sale value in effect becomes public information.
   - In many cases a sale of property will include property that is not class four property or part of a dwelling. For example, a person may buy a home and the 25 acres of forest land that surrounds the class four improvement. This person may have paid $1,000,000 for the property, but a large portion of that value may have been for the 25 acre parcel of forest land. In this case the acquisition value (the sale price) cannot be used as the assessed value of the class four property. It would be necessary to develop a mechanism for the assignment of assessed value for the class four property in cases like these.
   - Under current law, the taxable value of class four property increases due to the phasing-in of reappraisal. Under 15-20-420, MCA, an increase in taxable value due to reappraisal is not newly taxable value and therefore local governments could not collect new property tax revenue on the taxable value increase that is due to reappraisal. It is unknown how newly acquired property would be accounted for under the provisions of 15-20-420, MCA. Such a proposal should amend 15-10-420, MCA, so that the new changes in value are defined as qualifying as newly taxable property, or not qualifying as newly taxable property.
   - An acquisition value proposal that uses an owner-occupied dwelling criterion needs to clearly define what constitutes an owner-occupied dwelling. Administration, depending on implementation could be cumbersome in determining owner-occupation.
   - When a property is traded, exchanged, gifted, inherited, or is a non-arms length transaction, it must be clearly defined to what method of valuation should be used. Without detailed criterion for what constitutes a transaction and when the new acquisition value approach should be used, abuse could become an issue. For example, if the proposal allows family members to pass along property without an acquisition valuation approach, which types of family relationships would receive such a benefit, if not all (siblings, cousins, etc.)? Would non-arms length transactions be included in the acquisition value approach to valuation? If not, how would a true market value be determined?

- Under the current law six-year cyclical reappraisal system, all of the class four property will have an assessed value that is no older than six-years. In the cases where property is appreciating over time, the phasing-in of the reappraisal value will result in assessed values that lag six years behind true market value. In the cases where property is depreciating, the phase-down to reappraisal value will result in the assessed value being at 100% true market value. The current ad valorem system, combined with a six-year reappraisal cycle and the phase-up or phase-down of value, results in the majority of class four property with an assessed value that is no more than six years from being at true market value. Some property will have an assessed value that is right at true market value. Under an acquisition approach, the assessed value may never reach the true market value. Those properties actually depreciating in value, depending on implementation legislation could be assessed and taxed on a higher value than the true market value of the property.

6. There is not a companion bill to provide for the specific implementation of acquisition value. However, in the 2003 session SB 255 was a constitution amendment for acquisition value and the companion bill SB 260 was to implement acquisition value. To help understand the impacts that HB 319 might have, the following information from the fiscal note for SB 255 from the 2003 session is presented. The impacts and comments for implementation of this constitutional amendment would be similar.

FISCAL NOTE TO SB 255 – 2003 SESSION
Expenditures - Preparation to Implement Acquisition Value (Regardless of Electorate Approval)

1. SB255 is a companion bill to SB260. For purposes of this fiscal note it is assumed the passage of the constitutional amendment proposed in SB255 is passed and SB260 is implemented.
2. The following analysis assumes that the current computer assisted mass appraisal system (CAMAS) can be modified to implement an acquisition value based appraisal system.
3. The acquisition value assessment system must be ready for implementation on January 1, 2005. Because of this effective date, the Department of Revenue (DOR) must have the ability to fully implement the requirements by January 1, 2005. The following expenditures need to occur even if the outcome of the public vote is not to accept acquisition value.
4. Under the proposal, beginning on January 1, 2005, the assessed value of class four property may not exceed the market value of the property (New Section 1, subsection 2). To determine if the assessed value of the property does not exceed the market value of the property will require annual reappraisal of all class four property.
5. The proposal will require annual reappraisal of all class four property (currently, DOR reappraises class four property every six years). To be prepared for annual reappraisal on January 1, 2005, computer program changes and testing those changes must take place in FY2004 and the first half of FY2005. Some of those requirements include -
   - DOR to research, develop and store cost table information for each year from tax year 2005 forward;
   - Depreciation tables would need to be developed for each year and installed into cost tables for each year from tax year 2005 forward;
   - Computer assisted land pricing (CALP), market and income models will need to be developed and stored on the system for each year from tax year 2005 forward;
   - Increased storage capacity to provide for the valuation and tracking of up to six years worth of data for multiple base year modeling capabilities;
   - Provide for calculating the annual adjustment of assessed values and valuation limitation requirements of the proposal;
   - The ability to track new construction and remodeling and keep it segregated from prior year base value;
   - The ability to track the value in excess of 125% of the original value in situations where property was damaged or destroyed and reconstructed;

- The ability to calculate, track, and phase-in the value of residential property that is a primary residence of a first-time home buyer;
- The ability to track interest percentages and stock share percentages in corporations, partnerships, and associations as part of the determination of "change in ownership".

6. It is estimated that preparing to implement annual reappraisals would require 131,130 hours, or 74 FTE (131,130 / 1,760 effective work hours), above current staffing levels in FY2004 and each succeeding fiscal year. The 74 FTE would consist of 6 grade 15 and 68 grade 13 appraisers.
7. One additional programmer, at grade 16 (pay plan 68), would be needed to maintain changes made to the departments Montana ownership database system (MODS) beginning in FY2004.
8. Two additional FTE (grade 16) researchers and analysts are needed to assist with the transition to and implementation of an acquisition value based valuation system.
9. Three FTE (grade 15) industrial appraisers are needed to assist with the transition to and implementation of an acquisition value based valuation system.
10. The FTE necessary for FY2004 and annually is 80 (assumptions 4 through 7). The total personal services are estimated to be $2,174,229 in salary, $347,877 ($2,174,229 x 16%) in benefits, and $331,680 ($4,146 x 80) in health insurance, for a total of $2,853,786 in personal services in FY2004. Additional annual costs for the 80 FTE are $235,440 in operating expenses (maintenance, network costs, supplies, phone, rent, and training). The personal services and operating expenses for these 80 FTE for FY2005 are included in assumption 19.
11. It is estimated that one-time costs for the 80 FTE in FY2004 are $464,000 for equipment (work area, pc and printers, furniture, and miscellaneous), and $23,800 for appraisal training costs (rent and manuals).
12. It is estimated that upgrading the current AS400 computer and computer lines to counties would cost $269,000 in FY2004.
13. It is estimated that contracted services for upgrading the programming necessary to do annual reappraisals and implement acquisition value would cost $400,000 in FY2004.
14. Programming changes to the departments MODS system will be necessary to accommodate the changes in SB260. It is estimated that the changes would cost a total of $126,102 ($121,047 in contracted services, $3,431 in equipment, and $1,623 in operating expenses) in FY2004 only.

Expenditures - Administration of Acquisition Value

15. Implementation of an acquisition value based assessment system will require extensive research and record keeping to account for sales related ownership (first time home owner, age 55 exemption, legal transfers, etc.).
16. DOR staff will have to monitor ownership changes associated with property interests and stock ownership changes.
17. It is expected that an acquisition value based assessment system will result in more requests for review of assessed values and more appeals than under current law.
18. It is estimated that 22,635 hours, or 13 FTE (22,635 / 1,760 effective hours), would be necessary to prepare for and administer the workload in assumptions 14 through 16. The 13 FTE would be grade 13.
19. Experience in other states indicates that the level of legal assistance required to implement and maintain the acquisition value assessment system would increase. It is estimated that 2 FTE attorneys (grade 17) and 1 FTE paralegal (grade 13) would be needed to address the increased workload.
20. The total FTE necessary for FY2005 and succeeding fiscal years is 96 (16 new in FY2005 and 80 from FY2004). The total personal services are estimated to be $2,596,111 in salary, $415,378 ($2,596,111 x 16%) in benefits, and $398,016 ($4,146 x 96) in health insurance, for a total of $3,409,505 in personal services in FY2005. Additional annual costs for the 96 FTE are $285,984 in operating expenses (maintenance, network costs, supplies, phone, rent, and training).

21. It is estimated that one-time costs for the 16 FTE new in FY2005 are $92,800 for equipment (work area, pc and printers, furniture, and miscellaneous).
22. Establishing base year assessed values on January 1, 2005 will require mailing notices to property owners. It is estimated that mailing costs would total $194,245 ($12,510 for forms, $25,400 for system printing, $8,300 for processing, and $148,035 in postage) in FY2005.

Expenditures - FY2003

23. Passage of SB260 would require reversing the implementation of the current 2003 reappraisal values. The proposal calls setting assessed values based on the December 31, 2002 assessed value. The December 31, 2002 value was generated from the 1997 reappraisal. The department has recently completed the mechanism that replaced the 1997 reappraisal based system with the recent 2003 reappraisal based system. It is estimated that the cost of reversing the process and returning to the 1997 reappraisal based system would require $50,000. This would have to be completed before July 1, 2003.

Revenues – Property tax

24. SB260 has revenue implications because it suspends the implementation of the 2003 reappraisal for class 4 residential and commercial property. Under current law, class 4 properties that had an increase from reappraisal would see their assessed value phased-up to from the old assessed value on December 31, 2002 to the new reappraisal value. This phase-up would occur over a six-year period. Properties that saw a decrease in value from reappraisal would immediately be phased-down to the new, lower value.
25. Under SB260, those class 4 properties that had a decrease in reappraisal would immediately be phased-down to the new, lower reappraisal value. This is no different than current law.
26. Under SB260, those class 4 properties that had an increased reappraisal value will not phase-up to the new value. The assessed value of this property would remain fixed at the December 31, 2002 value.
27. The following table shows the estimated impact of SB260 on class 4 property.

Estimated Change in Class 4 Taxable Value
SB260

FY2004	Current Law	SB260	Difference
Residential	$ 775,396,179	$ 754,217,729	$ (21,178,450)
Commercial	$ 286,433,615	$ 278,856,886	$ (7,576,729)
Class 4 Total	$ 1,061,829,794	$ 1,033,074,615	$ (28,755,179)

FY2004	Current Law	SB260	Difference
Residential	$ 835,370,282	$ 784,386,438	$ (50,983,844)
Commercial	$ 307,831,580	$ 290,011,161	$ (17,820,419)
Class 4 Total	$ 1,143,201,863	$ 1,074,397,600	$ (68,804,263)

28. It is estimated that SB260 would reduce the taxable value of class 4 property $28,755,179 in FY2004 and $68,804,263 in FY2005 below current law levels.
29. The average state general fund mill levy is 95.53 mills (95 mills plus the 1.5 mills levied in five counties).
30. It is estimated that property tax revenue for the state general fund would decrease $2,750,000 ($28,755,179 x .09553) in FY2004 and $6,600,000 ($68,804,263 x .09553) in FY2005.
31. The mill levy for the university system is 6.00 mills.
32. It is estimated that property tax revenue for the university system would decrease $170,000 ($28,755,179 x .006) in FY2004 and $400,000 ($68,804,263 x .006) in FY2005.

Revenue – state trust lands leases

33. The Trust Land Management Division (TLMD) of the Department of Natural Resources and Conservation generates revenue for the trust beneficiaries from residential leases on state school trust lands. Revenues from these leases are generated through the determination of the appraised value of the trust land by the

Department of Revenue and applying a 3.5% to 5% rate of return annually. TLMD administers 792+ residential leases on trust lands.

34. The appraised values methodology for trust lands would follow the same procedures as private property under Section 10 of Senate Bill 260. Under Section 10, the 2003 reappraised values would be eliminated and a 2% annual increase would be applied to the 2002 appraised values.
35. Upon passage of Senate Bill 260, Section 10 would apply to state trust lands. In the event of approval by the electorate in November 2004, the constitutional amendment from Section 9 (effective January 2005) would apply to trust revenues. The impact of Senate Bill 260 would result in a significant reduction in trust revenues as follows:
    a. Revenues from residential leases have increased by an average of 11.3% annually over the last 7 years. Therefore, trust revenues related to residential leases would decrease by 9.3% annually. In FY 2002, residential leases generated $854,626 in distributable revenue. Based on the annual average increase of 11.3%, the revenues for FY 2003 would be $951,198. The impact on FY 2004 and FY 2005 revenues under the 11.3% growth rate and 2% growth rate is shown below:

	11.3% Increase	2% Increase	Revenue Impact
FY 2004	$1,058,684	$970,222	($88,462)
FY 2005	$1,178,315	$989,626	($188,689)

FISCAL IMPACT:

There is a FY2003 expenditure impact that is estimated to be $50,000.

	FY 2004 Difference	FY 2005 Difference
FTE	80.00	96.00
Expenditures:		
Personal Services	$2,853,786	$3,409,505
Operating Expenses	$781,910	$480,229
Equipment	$736,431	$92,800
TOTAL	$4,372,127	$3,982,534
Funding of Expenditures:		
General Fund (01)	$4,372,127	$3,982,534
Revenues:		
General Fund (01)	$(2,750,000)	$(6,600,000)
State Special Revenue University (02)	$(170,000)	$(400,000)
State Special Revenue (02) trust lands leases	($88,462)	($188,689)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$(7,122,127)	$(10,582,534)
State Special Revenue (02)	$(170,000)	$(400,000)
State Special Revenue (02) trust lands leases	($88,462)	($188,689)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. SB260 will change the total assessed value of class four property (residential and commercial real property). For FY2004 and FY2005, the total assessed value of class four property would be less under SB260 than

under current law. Since SB260 does not change the current law homestead and comstead exemptions, or the tax rate for class four property, the total taxable value of class four property will be less under SB260 than under current law (see the table after assumption 26). However, while the taxable value of class four property for FY2004 and FY2005 would be higher under current law than under SB260, the increase is due to the phasing-in of reappraisal, and under 15-20-420, MCA, an increase in taxable value due to reappraisal is not newly taxable value and therefore local governments could not collect new property tax revenue on the taxable value increase that is due to reappraisal.

LONG-RANGE IMPACTS:

1. The question of long-range impact, with respect to state government, would probably focus on the change in the overall tax base due to a change to an acquisition value based assessment system. Definitive quantitative analysis is difficult. However some general statements can be made.
2. The proposal affects the valuation of class four property only, with the exception of a limited amount of commercial property in class five property and a residual impact to the tax rate of class 12 (railroad and airline) property.
3. Under the current law six-year cyclical reappraisal system, all of the class four property will have an assessed value that is no older than six-years. In the cases where property is appreciating over time, the phasing-in of the reappraisal value will result in assessed values that lag six years behind true market value. In the cases where property is depreciating, the phase-down to reappraisal value will result in the assessed value being at 100% true market value. The current ad valorem system, combined with a six-year reappraisal cycle and the phase-up or phase-down of value, results in the majority of class four property with an assessed value that is no more than six years from being at true market value. Some property will have an assessed value that is right at true market value.
4. Under an acquisition value based system, the guarantee that the assessed value of all class four property will be no more than six years from a true market value is gone. In many cases, the assessed value may represent a true market value that is much more than six years old. In fact, under the allowable transfer to family, the assessed value could be decades old. There will be some property that will have an assessed value that is younger than six years old, and there will be property that will have an assessed value that is at true market value. If the age of an assessment were measured, it is unknown what the distribution of this measure would be. In the first year, the range of the measure would be that of current law (all assessments would be no older than six years). Each year thereafter, there would be a growing number of the population that would have assessments older than 6 years. This would continue, eventually reaching a steady state.
5. It is possible that the total assessed value of class four property under an acquisition based assessment system may be more than that under current law. It is also possible that the total assessed value of class four property under an acquisition based assessment system may be less than that under current law.
6. State trust land lease revenues over the long-term would be significantly reduced by Senate Bill 260 with a 2% limit on the increase in appraised values compared to the historical increase of 11.3% over the last seven years in residential lease values.

TECHNICAL NOTES:

Department of Revenue

1. Adjustments need to be made to MCA 15-7-301 – 311, the Realty Transfer Act. The Realty Transfer is the source or ownership changes, splits and, sales data used by the department. It does not currently contain the information required for implementation of SB260.
2. In Section 1, subsection 5(b)(ii), dealing with the common areas or other improvements made by an owner or by an owner association, states: *Any changes, additions, or improvements described in subsection (5)(b)(i) must be assessed initially at market value, and the market value must be apportioned among the*

parcels benefiting from the improvement. The market value of the changes, additions, or improvements must be assessed and added to the prior assessed value and then adjusted as provided in subsection (1) The phrase: "market value must be apportioned among the parcels benefiting from the improvement" does not suggest how the apportionment should be done.

3. In Section 1, subsection 10, the subsection states: *If a property qualifies as class four property, but the qualification is limited to the property owner's proportionate interest in the class four property, the provisions of this section apply only to the owner's proportionate interest*. This statement is either unnecessary, or if necessary, unclear as to it's meaning.
4. In Section 1, subsection 12 (a), the subsection states: *Except as provided in subsection (12)(b), if the department determines that for any year or years within the prior 3 years the owner of property classified as class four property was not entitled to the class four property assessment limitation granted under this section but was granted the class four property assessment limitation under circumstances other than those described in subsection (12)(b),* ***the department shall have recorded in the public records of the county within which the property is located a notice of tax lien against any property owned by the owner in the county and the property must be identified in the notice of tax lien****. Property upon which a lien is placed under this subsection (12)(a) is subject to the unpaid taxes, plus a penalty of 50% of the unpaid taxes for each year and 15% interest for each year or portion of a year that the tax remains unpaid*. It would appear that the department would immediately place a lien on the property without due notice to the taxpayer that additional tax is owed. Possibly it should be the county treasurer that files the lien, not the department of revenue.
5. In Section 2, subsection 1 (E)(e), the subsection states: *Assessed value is not changed by the remediation of property contaminated by hazardous waste that was not caused by the transferor or by any owner or former owner of the transferor.* and Section 2, Subsection 2 (d), the subsection states: *The assessed value may be transferred in an amount, not to exceed the adjusted acquisition value of contaminated property to a replacement property that is acquired or newly constructed as a replacement for property contaminated by hazardous waste that was not caused by the transferor or by any owner or former owner of the transferor.* The exact meaning of the term "the transferor or by any owner or former owner of the transferor", is unclear.
6. In Section 3, subsection 1 (c), the subsection states in part; the first $100,000 or less of the taxable ~~market~~ value of any improvement on real property, and In Section 3, subsection 2 (a)(i), the subsection states; Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (2)(a)(ii) of this section, property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at 3.794% of its taxable ~~market~~ value determined under [section 1] in tax year 1999.In both subsection, the market value has been changed to taxable value. The correct term would be assessed value.
7. In Section 6, subsection 1, the subsection states; *Any additional value associated with specific improvements made to an existing or new commercial building, other than a commercial building classified as class four property, ~~after December 31, 1995,~~ for the purpose of removing barriers to the movement, safety, or comfort of a person with a disability may not increase the taxable valuation of the building*. The addition of the term "other than a commercial building classified as class four property" is confusing and redundant.
8. In Section 7 subsection 1, the term "market" value in subsections 3 and 6; has been changed to the term "appropriate" value. The term "appropriate value" has no legal of appraisal meaning. The word "market" should not be changed to "appropriate" in these two subsections.
9. In Section 12, subsection 1, the subsection states: *~~The~~ Except as provided in subsection (2), the same method of appraisal and assessment ~~shall~~ must be used in each county of the state to the end that comparable property with similar true market values and subject to taxation in Montana ~~shall have~~ has substantially equal taxable values at the end of each cyclical revaluation program ~~hereinbefore provided~~.* This bill would eliminate market based appraisals and the cyclical reappraisal program. Furthermore,

because property appraisals that increase in the 2003 reappraisal are frozen, but the property appraisals that decrease, are implemented, then the statement above is unattainable. The term should read: *~~The~~ <u>Except as provided in subsection (2), the</u> same method of appraisal and assessment ~~shall~~ <u>must</u> be used in each county of the state.*

10. In Section 15, subsection 5(b)(iii), the subsection states: *Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a base water cost of $5.50 for each acre of irrigated land. Total allowable water costs may not exceed $40 for each acre of irrigated land.* The department has recently changed this cost through administrative rule at the recommendation of the Governor's Advisory Committee. The base cost should state $10.00, not $5.50.
11. In Section 15, subsection 5 (B), the subsection states: *Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which is the calendar year immediately preceding the year ~~specified by the department in 15-7-103(5)~~ <u>of the next reappraisal</u>. By July 1 of the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in that energy cost base year.* This change does not allow enough time for the department to capture energy cost data for reappraisal of agricultural land. The language could be changed to *by July 1 of the ~~year following the~~ energy cost base year.* This would allow sufficient time to collect the data.
12. In Section 18, subsection 2 (b), the subsection states: *If the property is newly constructed or existing property that changed ownership or classification after December 31, 2002, but prior to [the effective date of this section], the base value is the market value of the property on [the effective date of this section] trended back to December 31, 2002, as adjusted by appreciation of the exemptions provided in 15-6-201(1)(z) or (1)(aa) and as adjusted under subsection (3) of this section; or the term "trended back to December 31, 2002", can contain several interpretations.* The intent could be that the department continues to use the market models and cost schedules currently in place for the 1997 reappraisal cycle, or the intent could be that the department use current market data (2003 & 2004) and trend that information back to 2002.
13. In Section 1, subsection 5 (a) it is implied that new construction would not be assessed until it was substantially complete. Currently all new construction is assessed as to what was present as of January 1 of that tax year.
14. Section 1, subsection 2 implies that a full reappraisal of all property must take place annually to ensure that assessed value does not exceed market value. If it does, then the assessed value must be reduced to the market value. Full reappraisal of all property includes not only the valuation of the property but also the activities involved in the process of final determination of values. This involves onsite reviews of all property.
15. Section 18, effective January 1, 2005, contains the law that sets the initial acquisition values. This law relies on and refers to the current law homestead and comstead exemptions in 15-6-201(1)(z) or (1)(aa). Section 18 is effective January 1, 2005. Section 5 of the bill, also effective January 1, 2005, deletes the homestead and comstead exemption in 15-6-201(1)(z) or (1)(aa) from law.
16. Section 1, subsection 9 states: *Only property that qualifies as class four property is subject to this section. Property or a portion of property that is classified and assessed solely on the basis of character or use pursuant to 15-6-133 or 15-6-143 is not subject to this section. Whenever property is classified and assessed under 15-6-133 or 15-6-143 and contains class four improvements under the same ownership, the portion of the property consisting of the residence and area immediately surrounding the residence or of other class four improvements must be assessed separately for the assessment to be subject to the class four assessment provisions of this section.* The proposal does not provide a definition of *"area immediately surrounding the residence or of other class four improvements"*.

17. Another concern regarding Section 1, subsection 9. In many cases a sale of property will include property that is not class four property. For example, a person may buy a home and the 25 acres of forest land that surrounds the class four improvement. This person may have paid $1,000,000 for the property, but a large portion of that value may have been for the 25 acre parcel of forest land. In this case the acquisition value (the sale price) cannot be used as the assessed value of the class four property. The proposal does not contain a mechanism for assigning an assessed value for the class four property in cases like these.
18. The section of law that allows the transfer of assessed value of a primary residence (Section 2, subsection 2) details that the assessed value *may be transferred to a replacement primary residence of equal or lesser value*. The proposal does not define what value (taxable, assessed, base year assessed…) may be transferred. Perhaps the intent was that the assessed value may be transferred to a replacement primary residence of *higher* value.
19. The proposal does not amend 15-10-420, MCA, the maximum mill levy calculation. Under acquisition value, there are new occurrences of changes in taxable value. The proposal should amend 15-10-420 so that the new changes in value are defined as qualifying as newly taxable property or not qualifying as newly taxable property.

Department of Natural Resources

20. Senate Bill 260 limits and directs the values of state cabin site and homesite leases by directing that TLMD use prior land appraisals and by limiting the appreciation in their appraised value. Section 11 of the State's Enabling Act and Article X, Section 11 of the 1972 Montana Constitution both mandate that the State of Montana receive the full market value for the disposition of any interest in state trust lands. SB 260 interferes with that constitutional mandate. In Montrust v. State of Montana, 260 Mont. 402, 989 P.2d 800 (1999), the Montana Supreme Court struck down a legislative direction that fixed the purchase price of easements acquired on state trust lands at 1972 land values. The Court held that state constitutional provisions regarding school trust lands are limitations on the power of disposal by the legislature.