HOUSE BILL NO. 663

INTRODUCED BY M. JOPEK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION; MITIGATING THE EFFECTS OF PROPERTY TAX REAPPRAISAL; PHASING IN CHANGES TO THE TAX RATES OF CLASS FOUR AND CLASS TEN PROPERTY; INCREASING THE INCOME ELIGIBILITY REQUIREMENTS FOR THE PROPERTY TAX ASSISTANCE PROGRAM; ESTABLISHING EXEMPTION RATES FOR RESIDENTIAL AND COMMERCIAL CLASS FOUR PROPERTY; INCREASING THE ELIGIBILITY INCOME REQUIREMENTS AND BENEFIT AMOUNTS FOR THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; ESTABLISHING A FOREST LANDS TAXATION ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT OF REVENUE IN ITS DETERMINATION OF THE VALUE OF FOREST LANDS; PROVIDING FOR THE APPOINTMENT AND TERMS OF THE MEMBERS OF THE COMMITTEE; AMENDING SECTIONS 15-6-134, 15-6-143, 15-6-193, 15-6-222, 15-7-111, 15-30-171, 15-30-172, 15-30-176, AND 15-44-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE 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) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first $100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 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 $15,000 for a single person or $20,000 for a married couple or a head of household, as adjusted according to subsection

(2)(b)(ii). For the purposes of this subsection (1)(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 nine holes and not less than 700 lineal yards;

(e) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, 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.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), and (1)(e) through (1)(g) of this section is taxed at:

(i) ~~3.22%~~ 2.85% of its taxable market value in tax year ~~2005~~ 2009;

(ii) ~~3.14%~~ 2.7% of its taxable market value in tax year ~~2006~~ 2010;

(iii) ~~3.07%~~ 2.57% of its taxable market value in tax year ~~2007~~ 2011;

(iv) 2.45% of its taxable market value in tax year 2012;

(v) 2.35% of its taxable market value in tax year 2013; and

~~(iv)~~(vi) ~~3.01%~~ 2.25% of its taxable market value in tax years after ~~2007~~ 2013.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$0 - $ 6,000	$0 - $8,000	20%

$6,001 - $9,200	$8,001 - $14,000	50%
$9,201 - $15,000	$14,001 - $20,000	70%

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

(A) multiplying the appropriate dollar ~~amount~~ amounts from subsection (1)(c) and the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

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

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

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

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

Section 2. Section 15-6-143, MCA, is amended to read:

"15-6-143. Class ten property -- description -- taxable percentage. (1) Class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property ~~is taxed at 0.79% of its forest productivity value in tax year 1999, and the rate is reduced by 0.11% each year until the property~~ is taxed at:

(a) for tax year 2009, ~~0.35%~~ 0.32% of its forest productivity value;

(b) for tax year 2010, 0.3% of its forest productivity value;

(c) for tax year 2011, 0.28% of its forest productivity value;

(d) for tax year 2012, 0.26% of its forest productivity value;

(e) for tax year 2013, 0.24% of its forest productivity value; and

(f) for tax years after 2013, 0.23% of its forest productivity value."

Section 3. Section 15-6-193, MCA, is amended to read:

"15-6-193. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles ~~that begin after December 31, 2008~~, the rate of taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted only for the current tax year and may not be granted for a previous year.

(3) A rate adjustment may not be granted for:

(a) any property that was sold or for which the ownership was changed after December 31 of the last year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

(b) the value of new construction, including remodeling, on the property occurring after December 31 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements; or

(c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that increases the market value of the land by more than 25%.

(4) For the purposes of determining the adjustment in the class four property tax rate in this section, the following provisions apply ~~for revaluation cycles beginning after December 31, 2008~~:

(a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal.

(ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous reappraisal cycle.

(iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current reappraisal cycle.

(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.

(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.

(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.

(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes 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. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111~~(3)~~(5) since the last reappraisal.

(5) (a) If total household income is ~~$25,000~~ $28,500 or less, the percentage increase in taxable value is greater than ~~24%~~ 54%, and the dollar increase in taxable liability is ~~$250~~ $285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such~~ so that the total increase in taxable value over the reappraisal cycle is ~~24%~~ 54% and ~~such~~ so that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than ~~$25,000~~ $28,500 but less than or equal to ~~$50,000~~ $57,000, the percentage increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is ~~$250~~ $285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such~~ so that the total increase in taxable value over the reappraisal cycle is ~~30%~~ 60% and ~~such~~ so that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(c) If total household income is greater than ~~$50,000~~ $57,000 but less than or equal to ~~$75,000~~ $85,500, the percentage increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is ~~$250~~ $285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate ~~will~~ must be calculated ~~such~~ so that the total increase in taxable value over the reappraisal cycle is ~~36%~~ 70% and ~~such~~ so that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) (a) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(b) The department shall mail a notice of the program, qualification requirements, and an application to each taxpayer that, under records of the department, probably qualifies for the property tax assistance provided under this section.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Section 4. Section 15-6-222, MCA, is amended to read:

"15-6-222. Residential and commercial improvements -- percentage of value exempt. (1) The following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f) is exempt from property taxation:

(a) ~~32%~~ 35.9% for tax year ~~2005~~ 2009;

(b) ~~32.6%~~ 37.4% for tax year ~~2006~~ 2010;

(c) ~~33.2%~~ 38.7% for tax year ~~2007~~ 2011;

(d) 39.9% for tax year 2012;

(e) 41.1% for tax year 2013;

~~(d)~~(f) ~~34%~~ 42% for tax year ~~2008~~ 2014 and succeeding tax years.

(2) The following percentage of the market value of commercial property described in 15-6-134(1)(g) is exempt from property taxation:

(a) ~~13.8%~~ 15.3% for tax year ~~2005~~ 2009;

(b) ~~14.2%~~ 15.5% for tax year ~~2006~~ 2010;

(c) ~~14.6%~~ 15.7% for tax year ~~2007~~ 2011;

(d) 15.9% for tax year 2012;

(e) 16.4% for tax year 2013;

~~(d)~~(f) ~~15%~~ 16.6% for tax year ~~2008~~ 2014 and succeeding tax years."

Section 5. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually.

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) The revaluation of class three, four, and ten property is complete on December 31, 2008. The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.

(4) The department shall provide to the revenue and transportation interim committee, during the end of the second and fourth year of each revaluation cycle, a sales assessment ratio study of residences to be used to allow the committee to be apprised of the housing market and value trends.

~~(3)~~(5) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, ~~2009~~ 2015, effective for January 1, ~~2009~~ 2015, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal.

If a percentage of change for each year is not established, then the percentage of phasein for each year is 16.66%."

Section 6. Section 15-30-171, MCA, is amended to read:

"15-30-171. Residential property tax credit for elderly -- definitions. As used in 15-30-171 through 15-30-179, the following definitions apply:

(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(2) "Claimant" means a person who is eligible to file a claim under 15-30-172.

(3) "Department" means the department of revenue.

(4) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(5) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the landlord.

(6) "Homestead" means:

(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

(7) (a) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(8) "Household income" means the amount obtained by subtracting ~~$6,300~~ $7,850 from gross household income.

(9) (a) "Income" means, except as provided in subsection (9)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home.

(b) For the purposes of this subsection (9), income is reduced by the taxpayer's basis.

(10) "Property tax billed" means taxes levied against the homestead, including special assessments and fees but excluding penalties or interest during the claim period.

(11) "Rent-equivalent tax paid" means 15% of the gross rent."

Section 7. Section 15-30-172, MCA, is amended to read:

"15-30-172. Residential property tax credit for elderly -- eligibility. (1) In order to be eligible to make a claim under 15-30-171 through 15-30-179, an individual:

(a) must have reached age 62 or older during the claim period for which relief is sought;

(b) must have resided in Montana for at least 9 months of that period;

(c) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period; and

(d) must have less than ~~$45,000~~ $48,300 of gross household income.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period, provided that the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period."

Section 8. Section 15-30-176, MCA, is amended to read:

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

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount

of property tax billed less the deduction specified in subsection (4).

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

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

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

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

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

Household income	Amount of reduction
$0 - ~~$999~~	~~$0~~
~~$1,000 - $1,999~~ $2,120	$0
~~$2,000~~ $2,121 - ~~$2,999~~ $3,250	the product of .006 times the household income
~~$3,000~~ $3,251 - ~~$3,999~~ $4,340	the product of .016 times the household income
~~$4,000~~ $4,341 - ~~$4,999~~ $5,420	the product of .024 times the household income
~~$5,000~~ $5,421 - ~~$5,999~~ $6,500	the product of .028 times the household income
~~$6,000~~ $6,501 - ~~$6,999~~ $7,600	the product of .032 times the household income
~~$7,000~~ $7,601 - ~~$7,999~~ $8,700	the product of .035 times the household income
~~$8,000~~ $8,701 - ~~$8,999~~ $9,800	the product of .039 times the household income
~~$9,000~~ $9,801 - ~~$9,999~~ $10,900	the product of .042 times the household income
~~$10,000~~ $10,901 - ~~$10,999~~ $11,900	the product of .045 times the household income
~~$11,000~~ $11,901 - ~~$11,999~~ $13,000	the product of .048 times the household income
~~$12,000~~ $13,001 ~~& over~~ or more	the product of .050 times the household income

(5) For a claimant whose household income is ~~$35,000~~ $38,000 or more but less than ~~$45,000~~ $48,300, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Gross household income	Percentage of credit allowed
~~$35,000~~ $38,000 - ~~$37,500~~ $40,700	40%
~~$37,501~~ $40,701 - ~~$40,000~~ $43,400	30%

~~$40,001~~ $43,401 - ~~$42,500~~ $46,000	20%
~~$42,501~~ $46,001 - ~~$44,999~~ $48,299	10%
~~$45,000~~ $48,300 or more	0%

(6) The credit granted may not exceed ~~$1,000~~ $1,085."

Section 9. Section 15-44-103, MCA, is amended to read:

"15-44-103. Legislative intent -- value of forest lands -- valuation zones. (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land valuation schedules for each forest valuation zone ~~to take effect on January 1, 1994,~~ the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula V = I/R, where:

(a) V is the per-acre forest productivity value of the forest land;

(b) I is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula I = (M x SV) + AI - C, where:

(i) I is the per-acre net income;

(ii) M is the mean annual net wood production;

(iii) SV is the stumpage value;

(iv) AI is the per-acre agriculture-related income; and

(v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

(c) R is the capitalization rate determined by the department as provided in subsection (6).

(5) Net income must:

(a) be calculated for each year of a base period, which is the most recent 5-year period for which data is available;

(b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone and on the associated production cost data for the base period from sources considered appropriate by the department; and

(c) include agriculture-related net income for the same time period as the period used to determine average stumpage values.

(6) The capitalization rate must be calculated for each year of the base period and is the annual average interest rate on agricultural loans as reported by the Northwest farm credit services, agricultural credit association of Spokane, Washington, plus the effective tax rate.

(7) The effective tax rate must be calculated for each year of the base period by dividing the total estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

(8) For the purposes of this section, if forest service sales are used in the determination of stumpage values, the department shall take into account purchaser road credits.

(9) In determining the forest productivity value of forest lands and in computing the forest land valuation schedules, the department shall use information and data provided by the university of Montana-Missoula.

(10) (a) There is a forest lands taxation advisory committee consisting of:

(i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the minority leader of the house of representatives; and

(ii) three members appointed by the governor, one who is an industrial forest landowner, one who is a nonindustrial forest landowner, and one who is a county commissioner.

(b) The terms of the members expire on December 31 of each even-numbered year.

(c) The advisory committee shall:

(i) review data required by subsections (2), (3), (4), (8), and (9), including data on productivity value, stumpage value, wood production, net income, and agriculture-related income;

<u>(ii) recommend to the department any adjustments to data if required by changes in government forest land programs, market conditions, or prevailing forest lands practices;</u>

<u>(iii) recommend appropriate base periods and averaging methods to the department;</u>

<u>(iv) verify for each forest valuation zone and forest land classification under subsection (3) that the income determined in subsection (4) reasonably approximates that which the average Montana forest landowner could have attained; and</u>

<u>(v) recommend forest land valuation schedules to the department.</u>"

<u>NEW SECTION.</u> **Section 10. Effective date.** [This act] is effective on passage and approval.

<u>NEW SECTION.</u> **Section 11. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

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