

1 HOUSE BILL NO. 668

2 INTRODUCED BY J. FRENCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE METHODS USED BY THE DEPARTMENT OF
5 REVENUE TO VALUE RAILROAD TRANSPORTATION PROPERTY FOR PROPERTY TAX PURPOSES;
6 AMENDING SECTIONS 15-8-111, 15-23-204, AND 15-23-205, MCA; REPEALING SECTION 15-23-203, MCA;
7 AND PROVIDING AN APPLICABILITY DATE."

8

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

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11 **Section 1.** Section 15-8-111, MCA, is amended to read:

12 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be
13 assessed at 100% of its market value except as otherwise provided.

14 (2) (a) Market value is the value at which property would change hands between a willing buyer and a
15 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of
16 relevant facts.

17 (b) If the department uses construction cost as one approximation of market value, the department shall
18 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional
19 obsolescence, or economic obsolescence.

20 (c) If the department uses the capitalization-of-net-income method as one approximation of market value
21 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely
22 upon the two methods that provide a similar market value as the better indicators of market value.

23 (d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural
24 tools, implements, and machinery is the average wholesale value shown in national appraisal guides and
25 manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules
26 showing the average wholesale value when a national appraisal guide does not exist.

27 (3) The department may not adopt a lower or different standard of value from market value in making
28 the official assessment and appraisal of the value of property, except:

29 (a) the wholesale value for agricultural implements and machinery is the average wholesale value
30 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment

1 dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the
2 department shall use a comparable publication or wholesale value category.

3 (b) for agricultural implements and machinery not listed in an official guide, the department shall prepare
4 a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

5 (c) for condominium property, the department shall establish the value as provided in subsection (4); and

6 (d) as otherwise authorized in Titles 15 and 61.

7 (4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available,
8 the department shall use the comparable sales method to appraise residential condominium units. Because the
9 undivided interest in common elements is included in the sales price of the condominium units, the department
10 is not required to separately allocate the value of the common elements to the individual units being valued.

11 (b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the
12 department, the department shall use the capitalization-of-net-income method to appraise commercial
13 condominium units. Because the undivided interest in common elements contributes directly to the
14 income-producing capability of the individual units, the department is not required to separately allocate the value
15 of the common elements to the individual units being valued.

16 (c) If sufficient, relevant information on comparable sales is not available for residential condominium
17 units or if sufficient, relevant information on income is not made available for commercial condominium units, the
18 department shall value condominiums using the construction-cost method. When using the construction-cost
19 method, the department shall determine the value of the entire condominium project and allocate a percentage
20 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the
21 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether
22 the percentage expressed in the declaration conforms to market value.

23 (5) For purposes of taxation, assessed value is the same as appraised value.

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

26 (7) The assessed value of properties in 15-6-131 through 15-6-134, and 15-6-143, ~~and 15-6-145~~ is as
27 follows:

28 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
29 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
30 15-23-516, 15-23-517, or 15-23-518.

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

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

5 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value
6 minus any portion of market value that is exempt from taxation under 15-6-222.

7 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the
8 land when valued as forest land.

9 (f) ~~Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described~~
10 ~~in 15-23-205.~~

11 (8) Land and the improvements on the land are separately assessed when any of the following
12 conditions occur:

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

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

15 (c) the land is outside an incorporated city or town."
16

17 **Section 2.** Section 15-23-204, MCA, is amended to read:

18 "**15-23-204. Assessment of railroads.** The president, secretary, or managing agent or ~~such other~~
19 ~~another~~ officer ~~as that~~ the department of revenue may designate of any corporation and each person or
20 association of persons owning or operating any railroad in more than one county in this state or more than one
21 state ~~must~~ shall on or before April 15 each year furnish the department a statement signed and sworn to by one
22 of ~~such the~~ officers or by the person or one of the persons forming ~~such the~~ association; showing in detail for the
23 year ending December 31 immediately preceding:

24 (1) the whole number of miles of railroad track in the state and, ~~where if the line track~~ is partly out of the
25 state, the whole number of miles ~~without of track outside of~~ the state and the whole number of miles within the
26 state, owned or operated by ~~such the~~ corporation, person, or association;

27 (2) the value of the roadway, roadbed, and rails of the ~~whole entire~~ railroad system and the value of the
28 ~~same property~~ within the state;

29 (3) the width of the right-of-way;

30 (4) the number of each kind of all rolling stock used by ~~such the~~ corporation, person, or association in

1 operating the entire railroad, including the part ~~without~~ outside of the state;

2 (5) the number, kind, and value of rolling stock owned and operated in the state;

3 (6) the number, kind, and value of rolling stock used in the state but not owned by the party making the
4 ~~returns~~ return;

5 (7) the number, kind, and value of rolling stock owned but used ~~out~~ outside of the state, either upon
6 divisions of ~~road~~ track operated by the party making the ~~returns~~ return or by and upon other railroads;

7 (8) the whole number of sidetracks in each county, including the number of miles of track in each railroad
8 yard in the state;

9 (9) the number of each kind of rolling stock used in operating the entire railroad, including the part ~~without~~
10 outside of the state, which must include a detailed statement of the number and value ~~thereof~~ of all engines; all
11 passenger, mail, express, baggage, freight, and other cars; or all property owned or leased by ~~such~~ the
12 corporation, person, or association;

13 (10) the number of sleeping and dining cars not owned by ~~such~~ the corporation, person, or association
14 but used in operating the railroads of ~~such~~ the corporation, person, or association in the state or on the ~~line~~ track
15 of the ~~road without~~ railroad outside of the state during each month of the year for which the return is made; ~~also~~
16 and the number of miles each month the cars have been run or operated within and ~~without~~ outside of the state;

17 (11) a description of the ~~road~~ railroad system in the state, giving the points of entrance into and the points
18 of exit from each county, with a statement of the number of miles in each county. When a description of the ~~road~~
19 railroad system in the state has ~~once~~ been given, no other annual description ~~thereof~~ is necessary unless the
20 ~~road~~ railroad system has been changed. Whenever the ~~road~~ railroad or any portion of the ~~road~~ railroad is
21 advertised to be sold or is sold for ~~taxes~~, either state or county taxes, no ~~other~~ description is necessary other than
22 that given by, ~~and the same is conclusive upon~~, the person, corporation, or association giving the description and
23 that description is conclusive. ~~No~~ An assessment is not invalid ~~on account~~ because of a misdescription of the
24 railroad or the right-of-way for the ~~same~~ railroad. If ~~such~~ the statement is not furnished ~~as above provided~~, the
25 assessment made by the department upon the property of the corporation, person, or association failing to furnish
26 the statement is conclusive and final.

27 (12) the gross earnings of the entire ~~road~~ railroad system;

28 (13) the gross earnings of the ~~road~~ railroad system within the state and, if the railroad is ~~let~~ leased to
29 other operators, how much was derived by the lessor as rental;

30 (14) the cost of operating the entire ~~road~~ railroad system, exclusive of sinking fund, expenses of land

1 department, and money paid to the United States;
 2 (15) net income for such year and amount of dividend declared;
 3 (16) the revenue ton miles of the entire railroad system and the revenue ton miles in the state;
 4 ~~(16)(17)~~ capital stock authorized;
 5 ~~(17)(18)~~ capital stock paid in;
 6 ~~(18)(19)~~ funded debt;
 7 ~~(19)(20)~~ number of shares authorized;
 8 ~~(20)(21)~~ number of shares of stock issued;
 9 ~~(21)(22)~~ number, kind, and total number of miles traveled within the state by railroad cars owned by
 10 railroad car companies; and
 11 ~~(22)(23)~~ any other facts the department may require."
 12

13 **Section 3.** Section 15-23-205, MCA, is amended to read:

14 **"15-23-205. Assessment -- how made.** (1) The department shall assess the railroad transportation
 15 property of all railroads operated in more than one county or more than one state ~~as provided in this section.~~
 16 Assessment must be made to the person owning or leasing or using the property and must be made upon the
 17 entire railroad within the state.

18 ~~(2) The department shall determine the value of the railroad system for the current year by multiplying~~
 19 ~~the base value of the railroad by the value change factor determined under subsection (3).~~

20 ~~———— (3) (a) The value change factor is the sum of the income change factor, weighted by 50%, the gross profit~~
 21 ~~margin change factor, weighted by 25%, and the property change factor, weighted by 25%.~~

22 ~~———— (b) The income change factor is determined by dividing the change in earnings by the change in the~~
 23 ~~capitalization rate.~~

24 ~~———— (c) The gross profit margin change factor is determined by dividing the average gross profit margin for~~
 25 ~~the 2 years immediately preceding the current tax year by the average gross profit margin for the 2 years~~
 26 ~~immediately preceding the previous tax year.~~

27 ~~———— (d) The property change factor is determined by dividing the system cost reported by the railroad for the~~
 28 ~~tax year immediately preceding the current tax year by the system cost reported by the railroad for the tax year~~
 29 ~~immediately preceding the previous tax year.~~

30 ~~———— (4) The department shall apportion the system value of the railroad to Montana by multiplying the system~~

1 value of the railroad determined under subsection (2) by the average of the allocation factor for the 2 years
 2 immediately preceding the current tax year. The allocation factor is determined under subsection (5):

3 ~~(5)(2)~~ The allocation factor used to apportion the system value of the railroad to Montana is the average
 4 of the sum of:

5 (a) the ratio of track miles in the state to total system track miles;

6 (b) the ratio of revenue ton miles in the state to total system revenue ton miles;

7 (c) the ratio of gross investment in road and equipment in the state to total system gross investment in
 8 road and equipment;

9 (d) the ratio of operating revenue reported in the state to total system operating revenue; and

10 (e) the ratio of railroad car and locomotive miles in the state to total system railroad car and locomotive
 11 miles.

12 ~~(6)~~ The department shall take into account extenuating circumstances to adjust the assessed value of
 13 railroad property in the state. Occurrences that may result in an adjustment to the assessed value of railroad
 14 property include but are not limited to:

15 ~~—— (a) extraordinary, unusual, or infrequent events that are material in nature and of a character different~~
 16 ~~from the typical or customary business operations, that are not expected to recur frequently, and that are not~~
 17 ~~normally considered in the evaluation of the operating results of a business; and~~

18 ~~—— (b) material increases or decreases in income and property as a result of events such as writeoffs,~~
 19 ~~writedowns, and changes in accounting methods or practices.~~

20 ~~(7)(3)~~ In determining the taxable value of railroad property, the department shall determine the
 21 percentage rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal
 22 Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

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24 NEW SECTION. **Section 4. Repealer.** Section 15-23-203, MCA, is repealed.

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26 NEW SECTION. **Section 5. Applicability.** [This act] applies to the valuation of railroads for property
 27 tax years beginning after December 31, 2009.

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