

1 HOUSE BILL NO. 616

2 INTRODUCED BY RANDALL, STAHL, WARBURTON, SALOMON, ESP, BECK, BLYTON, ROSENDALE,
3 WAGNER, HALE, OSMUNDSON, HANSEN, VANCE, HARRIS, KNUDSEN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE VALUATION AND TAXATION OF CERTAIN
6 AGRICULTURAL LAND AND RELATED LAWS; REQUIRING THE DEPARTMENT OF REVENUE TO CORRECT
7 THE 2002 BASE YEAR PRODUCTIVE CAPACITY VALUES OF CERTAIN AGRICULTURAL LAND AS THE
8 BASIS FOR PHASING IN 2008 BASE YEAR PRODUCTIVE CAPACITY VALUES; REQUIRING THE
9 DEPARTMENT OF REVENUE TO PROVIDE A REFUND TO CERTAIN OWNERS OF AGRICULTURAL LAND
10 FOR TAXES ERRONEOUSLY COLLECTED; CREATING AN AGRICULTURAL LAND ADVISORY COMMITTEE
11 TO ADVISE THE DEPARTMENT OF REVENUE ON IMPROVING THE VALUATION OF AGRICULTURAL
12 LAND; DIRECTING THE AGRICULTURAL LAND ADVISORY COMMITTEE TO REPORT TO THE REVENUE
13 AND TRANSPORTATION INTERIM COMMITTEE; REQUIRING THAT THE AGRICULTURAL LAND ADVISORY
14 COMMITTEE ASSIST THE DEPARTMENT OF REVENUE IN THE VALUATION OF AGRICULTURAL LAND;
15 PROVIDING A STATUTORY APPROPRIATION FOR THE PAYMENT OF PROPERTY TAX REFUNDS;
16 AMENDING SECTIONS 15-7-102, 15-7-111, 15-7-201, 15-7-202, AND 17-7-502, MCA; AND PROVIDING AN
17 IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20
21 **NEW SECTION. Section 1. Agricultural land advisory committee -- appointment -- duties.** (1) (a)

22 There is an agricultural land advisory committee of persons knowledgeable in agriculture and agricultural
23 economics. The advisory committee must include one staff member of the Montana state university-Bozeman,
24 college of agriculture. The committee consists of seven members:

25 (i) three persons appointed by the president of the senate, one of whom must be the staff member of
26 Montana state university-Bozeman. The president shall appoint one of the other two appointees as presiding
27 officer of the committee.

28 (ii) two persons appointed by the speaker of the house of representatives; and

29 (iii) two persons appointed by the governor.

30 (b) The appointments must be made by July 1 of each odd-numbered year and expire on June 30 of the

1 subsequent odd-numbered year. Any vacancy must be filled by the appointing authority of the member causing
2 the vacancy. Members are entitled to meals, lodging, and transportation reimbursement as provided in 2-18-501
3 through 2-18-503.

4 (2) In addition to advising the department as provided in 15-7-201, the committee shall:

5 (a) investigate problems that have arisen concerning the use of soil surveys in the valuation of class
6 three property described in 15-6-133; and

7 (b) assist the department in providing transparency, efficiency, and taxpayer understanding of the
8 valuation of agricultural land.

9 (3) The committee may meet as frequently as it considers necessary, but not less than once each
10 calendar quarter beginning July 1, 2011.

11 (4) The department shall provide support for the committee, including staff support by departmental
12 rangeland and geographic information system specialists.

13 (5) By May 31, 2012, the committee shall report to the revenue and transportation interim committee its
14 recommendations in identifying, evaluating, and providing possible solutions to problems that arose in valuing
15 agricultural property during the last reappraisal cycle through the use of soil surveys.

16 (6) On an ongoing basis, the committee shall advise the department on:

17 (a) establishing transparency and understanding of the agricultural land valuation process;

18 (b) providing taxpayer information on the valuation of agricultural land online that is up-to-date and
19 understandable and includes maps and geographical information system information;

20 (c) reviewing and reevaluating the agricultural land classification system, including but not limited to
21 productivity, soils, and moisture;

22 (d) defining and establishing a method to value or exempt agricultural land significantly affected by:

23 (i) soil type and the chemical content of the soil;

24 (ii) slope, aspect, and elevation of the land;

25 (iii) water levels;

26 (iv) wildlife and nonproductive vegetation;

27 (v) rock outcroppings or other natural or constructed physical impediments that limit or prohibit use of
28 the land; and

29 (vi) any other factors that the committee considers appropriate;

30 (e) what constitutes credible documentation necessary for adjusting an individual's or region's productive

1 capacity values;

2 (f) developing a procedure for an agricultural producer to gather and present appropriate evidence during
3 an assessment review or formal protest of valuation; and

4 (g) any other relevant issues and recommended legislation.

5

6 **NEW SECTION. Section 2. Agricultural land taxation -- legislative findings -- declaration of**
7 **purpose -- phase-in criteria.** (1) The legislature finds that:

8 (a) the department incorrectly revalued a substantial portion of agricultural land described in
9 15-6-133(1)(A) during the revaluation period completed December 31, 2008;

10 (b) the department did not phase in the revaluation of agricultural land for the revaluation completed on
11 December 31, 2008, as the legislature intended under the provisions of Chapter 483, Laws of 2009; and

12 (c) the department's method of revaluing agricultural land and the method for phasing in the revaluation
13 of agricultural land resulted in the erroneous and unfair taxation of agricultural land.

14 (2) The legislature declares that it is the purpose of [sections 2 and 3] to restore equity in the taxation
15 of agricultural land and to provide refunds to owners of agricultural land who were erroneously and unfairly taxed
16 on the phase-in value of their land.

17 (3) In order to remedy the erroneous and unfair taxation of agricultural land DESCRIBED IN 15-6-133(1)(A),
18 the department shall, by December 31, 2011, recompute the phasein of the 2008 base value of agricultural land
19 as provided in this section.

20 (4) For an agricultural parcel that had a change in acreage from the 2002 base year because the parcel
21 was subdivided or was combined with another parcel of agricultural land or there was a change in a parcel
22 description that was attributable to a change in mapping of the parcel, an error in an earlier description of the
23 parcel, or another change that was not the result of the taxpayer's agricultural decision, the department shall
24 determine the productive capacity value of the land for the 2002 base year. The department shall phase in the
25 difference between 2008 base year productive capacity value and the 2002 base year productive capacity value
26 determined under this subsection for tax years 2009 through 2014 at 16.66% a year. IF THE 2008 BASE YEAR
27 PRODUCTIVE CAPACITY VALUE IS LESS THAN THE 2002 BASE YEAR PRODUCTIVE CAPACITY VALUE, THE 2008 PRODUCTIVE
28 CAPACITY VALUE IS NOT PHASED IN FOR TAX YEARS 2009 THROUGH 2014.

29 (5) For an agricultural parcel that was reclassified or a parcel that was reclassified in a different
30 subclassification after the 2002 revaluation, the department shall calculate a productive capacity value of the

1 parcel as if the land had been reclassified in the 2002 base year by determining an average productive capacity
 2 value per acre for similarly classified parcels in the county in 2002 and multiplying the average productive
 3 capacity value by the acres in the parcel to determine the 2002 base value of the parcel. The department shall
 4 phase in the difference between the 2008 base year productive capacity value and the 2002 base year productive
 5 capacity value determined under this subsection for tax years 2009 through 2014 at 16.66% a year. IF THE 2008
 6 BASE YEAR PRODUCTIVE CAPACITY VALUE IS LESS THAN THE 2002 BASE YEAR PRODUCTIVE CAPACITY VALUE, THE 2008
 7 PRODUCTIVE CAPACITY VALUE IS NOT PHASED IN FOR TAX YEARS 2009 THROUGH 2014.

8 (6) (a) The department shall provide notice under 15-7-102 to the owner of agricultural land of the
 9 change in value. The taxpayer may request an assessment review as provided in 15-7-102.

10 (b) The department shall mail to each county assessment notices containing the phase-in values
 11 determined under this section. The revised phase-in values must be used to certify taxable value to the county.
 12 The adjustments to taxable value apply only to tax years 2012, 2013, and 2014.

13 (7) This section does not apply to:

14 (a) agricultural parcels for which a final appeal has been granted to the taxpayer by the department, a
 15 county tax appeal board, or the state tax appeal board or through a judicial determination; ~~or~~

16 (b) parcels that have been reclassified from another class of property to that described in 15-6-133(1)(A);
 17 OR

18 (C) NONQUALIFIED AGRICULTURAL LAND DESCRIBED IN 15-6-133(1)(C).

19
 20 **NEW SECTION. Section 3. Refund of erroneously collected taxes -- appropriation.** (1) ~~(a)~~ To
 21 further remedy the erroneous and unfair taxation of agricultural land for tax years 2009, 2010, and 2011, the
 22 department shall, by June 15, 2012, compute a refund for each taxpayer caused by a reduction in the taxable
 23 value based on the recomputation of the phasein of the productive capacity value of agricultural parcels under
 24 [section 2]. The refund for each of the tax years 2009, 2010, and 2011 is equal to the difference between the
 25 original taxable value of the agricultural parcel in the relevant tax year times the mill levies imposed in that tax
 26 year and the taxable value of the parcel based on the recomputation of phase-in value of the parcel in the relevant
 27 tax year times the mill levy imposed in that tax year.

28 ~~(b) (i) The department shall, by June 15, 2011, compute the refund for each taxpayer whose phased-in~~
 29 ~~values were recomputed by the department for changes in productivity only for tax year 2010 pursuant to ARM~~
 30 ~~42-20-607. The refund for tax year 2009 is equal to the difference between the original taxable value of the~~

1 agricultural parcel in the 2009 tax year times the mill levies imposed in that tax year and the taxable value of the
 2 parcel based on the recomputation of the phase-in of changes in productivity only in tax year 2009 times the mill
 3 levy imposed in that tax year.

4 ~~——— (ii) A taxpayer who timely filed an appeal of valuation based on changes in productivity only for the~~
 5 ~~agricultural parcel to the department, a county tax appeal board, or the state tax appeal board in tax year 2009~~
 6 ~~and received a refund of property taxes is not entitled to a refund under this subsection (1)(b). A taxpayer who~~
 7 ~~timely filed an appeal but did not receive a refund may be eligible for a refund under subsection (1)(b)(i).~~

8 (2) The department shall, by June 30, 2012, distribute refunds calculated under this section to each
 9 taxpayer less any refund of protested taxes amounts that the taxpayer is entitled to under 15-1-402 because of
 10 the recomputation of the phase-in value required by [section 1]. Interest on the refund must be determined as
 11 provided in 15-1-402. A taxpayer is not entitled to a refund under this section unless all taxes on the parcel have
 12 been paid, including taxes paid under protest, for tax years 2009, 2010, and 2011.

13 (3) Refunds of taxes to taxpayers determined under this section are statutorily appropriated, as provided
 14 in 17-7-502, from the general fund.

15

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

17 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided
 18 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
 19 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
 20 or more of the following changes pertaining to the land or improvements have been made since the last notice:

21 (i) change in ownership;

22 (ii) change in classification;

23 (iii) except as provided in subsection (1)(b), change in valuation, including the change in the 2002 base
 24 year productive capacity valuation and the change in the phase-in value determined under [section 2]; or

25 (iv) addition or subtraction of personal property affixed to the land.

26 (b) ~~After~~ Except as provided in [section 2], after the first year, the department is not required to mail the
 27 notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change
 28 in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under
 29 15-6-222 or caused by an incremental change in the tax rate.

30 (c) The notice must include the following for the taxpayer's informational purposes:

1 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
2 including the property tax assistance program under 15-6-134, the extended property tax assistance program
3 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential
4 property tax credit for the elderly under 15-30-2337 through 15-30-2341;

5 (ii) the total amount of mills levied against the property in the prior year; and

6 (iii) a statement that the notice is not a tax bill.

7 (d) Any misinformation provided in the information required by subsection (1)(c) does not affect the
8 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

9 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
10 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
11 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
12 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
13 the prior tax year.

14 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
15 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

16 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
17 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
18 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
19 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

20 (3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market
21 value of the property as determined by the department or with the classification of the land or improvements, the
22 owner may request an assessment review by submitting an objection in writing to the department, on forms
23 provided by the department for that purpose, within 30 days after receiving the notice of classification and
24 appraisal from the department. The review must be conducted informally and is not subject to the contested case
25 procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider
26 the actual selling price of the property, independent appraisals of the property, and other relevant information
27 presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The
28 department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the
29 department shall determine the correct appraisal and classification of the land or improvements and notify the
30 taxpayer of its determination. In the notification, the department shall state its reasons for revising the

1 classification or appraisal. When the proper appraisal and classification have been determined, the land must be
 2 classified and the improvements appraised in the manner ordered by the department.

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

5 (a) the taxpayer has submitted an objection in writing; and

6 (b) the department has stated its reason in writing for making the adjustment.

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

10 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
 11 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
 12 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
 13 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
 14 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
 15 the actual selling price of the property, independent appraisals of the property, and other relevant information
 16 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the
 17 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
 18 of the property in accordance with the board's order."

19

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

21 **"15-7-111. Periodic revaluation of certain taxable property.** (1) The department shall administer and
 22 supervise a program for the revaluation of all taxable property within class three under 15-6-133, class four under
 23 15-6-134, and class ten under 15-6-143. All other property must be revalued annually.

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

28 (3) ~~The~~ Subject to [section 2], the revaluation of class three, four, and ten property is complete on
 29 December 31, 2008. The amount of the change in valuation from the 2002 base year for each property in classes
 30 three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.

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

4 (5) The department shall administer and supervise a program for the revaluation of all taxable property
 5 within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the
 6 department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county
 7 is revalued by January 1, 2015, effective for January 1, 2015, and each succeeding 6 years. The resulting
 8 valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each
 9 year is not established, then the percentage of phase in for each year is 16.66%."

10

11 **Section 6.** Section 15-7-201, MCA, is amended to read:

12 **"15-7-201. Legislative intent -- value of agricultural property.** (1) Because the market value of many
 13 agricultural properties is based upon speculative purchases that do not reflect the productive capability of
 14 agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a
 15 value that is exclusive of values attributed to urban influences or speculative purposes.

16 (2) Agricultural land must be classified according to its use, which classifications include but are not
 17 limited to irrigated use, nonirrigated use, and grazing use.

18 (3) Within each class, land must be subclassified by production categories. Production categories are
 19 determined from the productive capacity of the land based on yield.

20 (4) ~~In~~ Subject to [section 2], in computing the agricultural land valuation schedules to take effect on the
 21 date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine
 22 the productive capacity value of all agricultural lands using the formula $V = I/R$ where:

23 (a) V is the per-acre productive capacity value of agricultural land in each land use and production
 24 category;

25 (b) I is the per-acre net income of agricultural land in each land use and production category and is to
 26 be determined as provided in subsection (5); and

27 (c) R is the capitalization rate and, unless the agricultural land advisory committee created under [section
 28 1] recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal
 29 to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

30 (5) (a) Net income must be determined separately in each land use based on production categories.

1 (b) Net income must be based on commodity price data, which may include grazing fees, crop and
2 livestock share arrangements, cost of production data, and water cost data for the base period using the best
3 available data.

4 (i) Commodity price data and cost of production data for the base period must be obtained from the
5 Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly
6 available information if considered appropriate by the agricultural land advisory committee.

7 (ii) Crop share and livestock share arrangements are based on typical agricultural business practices and
8 average landowner costs.

9 (iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless
10 the agricultural land advisory committee recommends otherwise and the department adopts the recommended
11 cost by rule, a base water cost of \$15 for each acre of irrigated land. Total allowable water costs may not exceed
12 \$50 for each acre of irrigated land. Labor and energy costs must be determined as follows:

13 (A) Labor costs are \$5 an acre for pivot sprinkler irrigation systems; \$10 an acre for tow lines, side roll,
14 and lateral sprinkler irrigation systems; and \$15 an acre for hand-moved and flood irrigation systems.

15 (B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which
16 is the calendar year immediately preceding the year specified by the department in 15-7-103(5). By July 1 of the
17 year following the energy cost base year, an owner of irrigated land shall provide the department, on a form
18 prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no
19 energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department
20 with energy costs from the most recent year available. The department shall adjust the most recent year's energy
21 costs to reflect costs in the energy cost base year.

22 (c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the
23 base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal
24 unit months (AUM), defined as the average monthly requirement of pasture forage to support a 1,000-pound cow
25 with a calf or its equivalent.

26 (d) Unless the agricultural land advisory committee recommends a different base period and the
27 department adopts the recommended base period by rule, the base period used to determine net income must
28 be the most recent 7 years for which data is available prior to the date the revaluation cycle ends. Unless the
29 agricultural land advisory committee recommends a different averaging method and the department adopts the
30 recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average

1 must exclude the lowest and highest yearly data in the period.

2 (6) The department shall compile data and develop valuation manuals adopted by rule to implement the
3 valuation method established by subsections (4) and (5).

4 ~~(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and
5 agricultural economics. The advisory committee shall include one member of the Montana state
6 university-Bozeman, college of agriculture, staff. The~~ In addition to the duties specified in [section 1], the
7 agricultural land advisory committee shall:

8 (a) compile and review data required by subsections (4) and (5);

9 (b) evaluate the information, data, and procedures that should be used by the department for determining
10 the productive capacity value of agricultural land;

11 ~~(b)(c)~~ (c) recommend to the department any adjustments to data or to landowners' share percentages if
12 required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

13 ~~(c)(d)~~ (d) recommend appropriate base periods and averaging methods to the department;

14 ~~(d)(e)~~ (e) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

15 ~~(e)(f)~~ (f) verify for each class of land that the income determined in subsection (5) reasonably approximates
16 that which the average Montana farmer or rancher could have attained; and

17 ~~(f)(g)~~ (g) recommend agricultural land valuation schedules to the department. With respect to irrigated land,
18 the recommended value of irrigated land may not be below the value that the land would have if it were not
19 irrigated."

20

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

22 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling
23 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land
24 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

25 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that
26 are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land
27 if:

28 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that
29 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the
30 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross

1 income from the raising of agricultural products produced by the land; or

2 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for
3 independent, intervening causes of production failure beyond the control of the producer or a marketing delay
4 for economic advantage, in which case proof of qualification in a prior year will suffice.

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

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

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

10 (iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement
11 of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

12 (A) applies to the department requesting classification of the parcel as agricultural;

13 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel
14 is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

15 (C) verifies that:

16 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of
17 the owner's Montana annual gross income is derived from agricultural production; and

18 (II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship,
19 or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross
20 income is derived from agricultural production; or

21 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership,
22 sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or
23 entity's Montana annual gross income is derived from agricultural production.

24 (c) For the purposes of this subsection (1):

25 (i) "marketing" means the selling of agricultural products produced by the land and includes but is not
26 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 that is devoted to residential use or that is used for agricultural buildings and is included in or is
2 contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified
3 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued
4 as provided in 15-7-206.

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

8 (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,
9 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products
10 as defined in 15-1-101;

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

14 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this
15 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
16 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have
17 not been further divided.

18 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2),
19 the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The
20 minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as
21 determined by the Montana state university-Bozeman department of agricultural economics and economics.

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

25 (5) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has
26 stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

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

29 (7) The department may not classify land less than 160 acres as agricultural unless the owner has
30 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which

1 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
 2 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must
 3 continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A
 4 reclassification does not mean revaluation pursuant to 15-7-111, a change in the subclassification of the land,
 5 or a change in agricultural use.

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

8 **Section 8.** Section 17-7-502, MCA, is amended to read:

9 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 10 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 11 need for a biennial legislative appropriation or budget amendment.

12 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 13 of the following provisions:

14 (a) The law containing the statutory authority must be listed in subsection (3).

15 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 16 appropriation is made as provided in this section.

17 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
 18 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
 19 10-3-314; 10-4-301; [section 3]; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
 20 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241;
 21 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
 22 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105;
 23 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 24 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
 25 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518;
 26 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and
 27 90-9-306.

28 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 29 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 30 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana

1 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
2 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
3 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
4 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
5 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
6 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
7 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
8 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
9 supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113
10 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30,
11 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

12

13 **NEW SECTION. Section 9. Codification instruction.** [Section 1] is intended to be codified as an
14 integral part of Title 15, chapter 7, part 2, and the provisions of Title 15, chapter 7, part 2, apply to [section 1].

15

16 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

17

18 **NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the
19 meaning of 1-2-109, to:

20 (1) determinations of 2002 base year agricultural productive capacity values; and

21 (2) refunds made for tax years beginning after December 31, 2008.

22

- END -