

SENATE BILL NO. 260
INTRODUCED BY B. DEPRATU

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAXATION; IMPLEMENTING ACQUISITION VALUATION OF CLASS FOUR PROPERTY UPON PASSAGE OF A CONSTITUTIONAL AMENDMENT AUTHORIZING THE USE OF ACQUISITION VALUATION FOR PROPERTY TAX PURPOSES; PROVIDING FOR A LIMITED ANNUAL CHANGE IN VALUE; PROVIDING FOR A 6-YEAR PHASE IN FROM 70 PERCENT OF ACQUISITION VALUE TO FULL ACQUISITION VALUE FOR FIRST-TIME HOME BUYERS; PROVIDING ACQUISITION VALUATION EXEMPTIONS FOR CERTAIN FAMILIAL, AGE, DISABILITY, DISASTER, AND DAMAGE TRANSFERS; PROVIDING AN EXEMPTION FOR CERTAIN CHANGES TO PROPERTY RELATING TO SUCH MATTERS AS HEALTH, SAFETY, AND HANDICAPPED ACCESSABILITY; PROVIDING FOR PENALTIES FOR PROPERTY THAT ILLEGALLY RECEIVED ACQUISITION VALUE TREATMENT; ESTABLISHING THAT DECEMBER 31, 2002, PROPERTY VALUES REMAIN THE VALUATION FOR TAXATION UNTIL PASSAGE OF THE CONSTITUTIONAL AMENDMENT AND THEN BECOME THE BASE YEAR FOR VALUATION; PROVIDING THAT IF THE CONSTITUTIONAL AMENDMENT FAILS TO BE APPROVED, THE 2003 REAPPRAISAL VALUES ARE PHASED IN UNTIL THE NEXT REAPPRAISAL; AMENDING SECTIONS 15-6-134, 15-6-138, 15-6-201, 15-6-216, 15-7-102, 15-7-103, 15-7-111, 15-7-112, 15-7-113, 15-7-114, 15-7-201, 15-8-111, AND 77-1-208, MCA; AND PROVIDING EFFECTIVE DATES AND A TRANSITION PROVISION."

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

NEW SECTION. Section 1. Assessment of class four property. (1) Except as provided in subsection (3) or (4), class four property is reassessed as of January 1 in each tax year by adjusting the assessed value of the property as of December 31 of the preceding tax year by the lesser of the following:

- (a) 2% of the assessed value of the property for the prior year; or
- (b) the percentage change in the consumer price index as defined in 15-30-101.

(2) The assessed value of class four property may not exceed the market value of the property. If the assessed value of class four property exceeds the market value of the property, the assessed value must be reduced to the market value.

- (3) (a) Except as provided in [section 2], whenever the ownership of class four property changes, the

property must be assessed on January 1 following the change in ownership at the value at which the property changed ownership, provided that the change in ownership was an arm's-length transaction.

(b) If a change in ownership of class four property occurs but is not an arm's-length transaction, the department shall determine the market value of the property and the market value as determined by the department becomes the assessed value of the property on January 1 following the change of ownership.

(c) The assessed value of a primary residence purchased by a first-time home buyer is 70% of the acquisition value of the property in the first year it is taxable to the first-time home buyer. The assessed value must be phased in to the full acquisition value in equal amounts over the ensuing 6 years. The adjustment provided in subsection (1) must be made annually to the phased-in value of the property. For the purposes of this subsection (3)(c), "first-time home buyer" has the meaning provided in 15-63-102.

(4) Property that newly qualifies as class four property must be assessed as of January 1 of the year following qualification as class four property. After qualification and assessment as class four property, the assessed value of the property must be adjusted annually as provided in subsection (1).

(5) (a) Except as provided in [section 2], whenever there is a change, addition, or improvement to class four property, the change, addition, or improvement must be assessed at market value as of January 1 after the change, addition, or improvement is substantially completed and added to the prior year's assessed value. The property is then subject to annual adjustment as provided in subsection (1).

(b) (i) Changes, additions, or improvements include improvements made to common areas or other improvements made by the owner or by an owner association, provided that the improvements directly benefit the class four property.

(ii) 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).

(6) Whenever a portion of property is destroyed or removed and not replaced, the assessed value of the total property must be reduced by the assessed value attributable to the destroyed or removed portion of property. For tax years following a reduced assessment resulting from the destruction or removal of property, the remaining property must be assessed as provided in subsection (1).

(7) (a) Whenever class four property ceases to qualify as class four property, the department shall reassess the property as provided in 15-8-111.

(b) The value determined by the department under subsection (7)(a) is the assessed value of the

property as of January 1 of the year following the disqualification of the property as class four property.

(8) (a) For the purpose of this section, a change in ownership means any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in subsection (8)(b), and includes:

(i) for any class four property owned by a corporation, a pass-through entity, a partnership, or an association organized under Title 53, except a corporation described in subsection (8)(a)(ii), a point in time when more than 50% of the interest in the corporation, partnership, or association has changed ownership since the most recent change of ownership, regardless of the identity of the buyer or seller of the interest. In establishing the basis upon which the 50% determination is made, the department shall, upon each valuation of the property for the purposes of this section, ascertain the value of the interest. The value of the interest determined by the department in this manner is twice the value that must change ownership for a future acquisition revaluation to be triggered.

(ii) for any class four property owned by a corporation, the stock of which is publicly held or publicly traded, a point in time when more than 50% of the shares of the stock in the corporation have been traded since the most recent change of ownership, regardless of the identity of the buyer or seller of the stock. In establishing the basis upon which the 50% determination is made, the department shall, upon each valuation of the property for the purposes of this section, determine the number of the shares of stock that have been issued in the corporation. The number of shares determined by the department in this manner is twice the number of shares that must be traded for a future acquisition revaluation to be triggered.

(b) There is no change of ownership if subsequent to the change or transfer, the same person is the owner of the class four property and:

(i) the transfer of title is to correct an error; or

(ii) the transfer is between legal and equitable title, including transactions involving contracts for deed.

(9) 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.

(10) 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.

(11) (a) Erroneous assessments of class four property under this section may be corrected as provided in subsection (11)(b) or (11)(c), as applicable.

(b) If an error is made in arriving at any annual assessment under this section due to a material mistake of fact concerning an essential characteristic of the property, the assessment must be recalculated for every year, but not for more than the 3 prior years, for which the error was made.

(c) If changes, additions, or improvements are not assessed at market value as of January 1 after the changes, additions, or improvements were substantially completed, the department shall determine the market value for the changes, additions, or improvements for the year they were substantially completed. Assessments for subsequent years must be corrected, applying this section if applicable. If an assessment is revised pursuant to 15-8-601, the corrections made pursuant to this subsection must be used to recalculate the taxes due.

(12) (a) 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.

(b) Whenever an owner of class four property who was not entitled to assessment under this section inadvertently receives the assessment limitation pursuant to this section, the assessment of the class four property must be corrected as provided in subsection (11) and the property owner is not subject to the unpaid taxes, penalties, or interest that otherwise would have been due if not for the inadvertent error.

NEW SECTION. Section 2. Acquisition value exemptions -- class four property. (1) (a) The market value or the applicable portion of market value of a change, addition, or improvement, for the purposes in subsections (1)(b) through (1)(d) does not change a property's assessed value.

(b) Assessed value is not changed for the replacement of a portion of class four property damaged or destroyed by misfortune or calamity whenever the market value of the damaged or destroyed portion as replaced is not more than 125% of the market value of the damaged or destroyed portion. The value of any replaced class four property or portion of class four property that is in excess of 125% of the market value of the damaged or destroyed property is considered to be a change, addition, or improvement. Replaced class four property with

a market value of less than 100% of the original property's market value must be assessed pursuant to [section 1(6)].

(c) (i) Assessed value is not changed for improvements to existing class four property to remove barriers to the movement, safety, or comfort of a person with a disability.

(ii) For the purposes of this subsection (1), improvements for the removal of barriers include:

(A) permanent ramps leading to entrances to the premises and between levels of the premises;

(B) elevators installed for the use of a person with a disability;

(C) handrails installed in and about the premises, indoors and outdoors;

(D) enlarged bathrooms and kitchens and any special equipment installed in them for the benefit of a person with a disability; and

(E) other reasonable accommodations made for the safety, convenience, and comfort of a person with a disability.

(d) Assessed value is not changed by installation of a fire alarm system or a fire extinguishing system, as defined in 50-39-108, either in an existing building or installed at the time of the initial construction of the building or for the installation of a fire-related egress improvement in an existing building.

(e) 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.

(2) (a) The assessed value, as adjusted annually under [section 1(1)], including any increases due to changes, additions, and improvements under [section 1(5)], may be transferred to replacement property, in whole or in part, as provided in subsections (2)(b) through (2)(d).

(b) The assessed value may be transferred to comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action that has resulted in a judgment of inverse condemnation. The adjusted base year value of the property acquired must be the lower of the fair market value of the property acquired or the value that is the sum of the following:

(i) the assessed base year value of the property from which the person was displaced; and

(ii) the amount, if any, by which the market value of the property acquired exceeds 120% of the amount received by the person for the property from which the person was displaced.

(c) (i) The assessed value of a primary residence of a person who is at least 55 years of age or of a person who is permanently and totally disabled may be transferred to a replacement primary residence of equal or lesser value. The assessed value of the primary residence must be transferred within 2 years of the sale of

the primary residence. However, if the original primary residence is still owned by the intended transferor when the replacement primary residence is purchased, the assessed value may not be transferred until the original primary residence is sold.

(ii) For the purposes of this subsection (2)(c), "permanently and totally disabled" has the meaning used in 15-30-111(6).

(d) 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.

(3) (a) The following transactions do not constitute a change in ownership for the purposes of changing the assessed value:

(i) an interspousal transfer, whether done directly or indirectly through business entities or fiduciaries, including transfers involving a deceased spouse or a former spouse due to dissolution of marriage under supervision of a court;

(ii) a transfer into a trust when the beneficiary or the trustee is the transferor or the transferor's spouse or former spouse;

(iii) the transfer, by a parent to a child or by a grandparent to a grandchild, of class four property.

(b) For the purposes of subsection (3)(a)(iii), the following definitions apply:

(i) "Child" means:

(A) a child born of the parent except a child who has been adopted by another person as provided in subsection (3)(b)(i)(D);

(B) a stepchild of the parent and the spouse of that stepchild while the relationship of stepparent and stepchild exists. The relationship of stepparent and stepchild is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) a son-in-law or daughter-in-law of the parent. The relationship of parent and son-in-law or daughter-in-law is considered to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) a child adopted by the parent pursuant to statute, other than an individual adopted after reaching 18 years of age.

(ii) "Grandchild" means a child of the child of the grandparent.

(4) A person shall apply for an assessed valuation exemption under subsections (1) through (3) on forms supplied by the department. The department may require proof of market value and other factors required to qualify for the exemption. The department may establish application deadlines for an exemption to apply to the next tax year. If the department refuses to grant an exemption, the applicant may use the procedure set forth in 15-7-102(3) to appeal the department's decision.

Section 3. 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 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section,~~ all land, except that specifically included in another class;

(b) ~~subject to 15-6-201(1)(z) and (1)(aa) 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 15-6-201(1)(z),~~ 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 as provided in [section 1].

(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) (i) 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.

(ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a)(ii) of its 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 from 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)(i).

~~(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 4. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

- (a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(~~bb~~)(z);
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;
- (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as providers as provided in 15-6-201, and supplies except those included in class five;
- (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- (f) special mobile equipment as defined in 61-1-104;
- (g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and
- (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service,

wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.

(b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula $(W/CPI) - 1$, where:

(i) W is the Montana wage and salary income for the most current available year divided by the Montana wage and salary income for the year prior to the most current available year; and

(ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i) divided by the consumer price index for the year prior to the most current available year as used in subsection (5)(b)(i).

(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the wage and salary data series referred to as the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Section 5. Section 15-6-201, MCA, is amended to read:

"15-6-201. (Temporary) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

- (v) public libraries; and
- (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
- (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
- (d) property that is:
 - (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
 - (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
 - (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
 - (i) truck canopy covers or toppers and campers;
 - (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
 - (k) motor homes;
 - (l) all watercraft;
 - (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

~~(z) the following percentage of the market value of residential property as described in 15-6-134(1)(e) and (1)(f):~~

~~—— (i) 23% for tax year 2000;~~

~~—— (ii) 27.5% for tax year 2001; and~~

~~—— (iii) 31% for tax year 2002 and succeeding tax years;~~

~~—— (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~

~~—— (i) 9% for tax year 2000;~~

~~—— (ii) 11% for tax year 2001; and~~

~~—— (iii) 13% for tax year 2002 and succeeding tax years;~~

~~(bb)(z)~~ personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

~~(ee)(aa)~~ items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

~~(dd)(bb)~~ all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; and

~~(ee)(cc)~~ light vehicles as defined in 61-1-139.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion,

creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories of property are exempt from taxation:

- (a) except as provided in 15-24-1203, the property of:
 - (i) the United States, except:
 - (A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or
 - (B) as provided in 15-24-1103;
 - (ii) the state, counties, cities, towns, and school districts;
 - (iii) irrigation districts organized under the laws of Montana and not operating for profit;
 - (iv) municipal corporations;
 - (v) public libraries; and
 - (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
- (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
- (d) property that is:
 - (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
 - (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
 - (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

- (B) repair and maintain machinery, equipment, appliances, or other personal property;
- (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- (s) harness, saddlery, and other tack equipment;
- (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;
- (u) timber as defined in 15-44-102;
- (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;
- (w) all vehicles registered under 61-3-456;
- (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and
 - (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);
 - (y) motorcycles and quadricycles;
 - ~~(z) the following percentage of the market value of residential property as described in 15-6-134(1)(e) and (1)(f):~~
 - ~~—— (i) 23% for tax year 2000;~~
 - ~~—— (ii) 27.5% for tax year 2001; and~~
 - ~~—— (iii) 31% for tax year 2002 and succeeding tax years;~~
 - ~~—— (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~
 - ~~—— (i) 9% for tax year 2000;~~
 - ~~—— (ii) 11% for tax year 2001; and~~
 - ~~—— (iii) 13% for tax year 2002 and succeeding tax years;~~
 - ~~(bb)(z)~~ personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;
 - ~~(ee)(aa)~~ items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
 - (i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

~~(dd)~~(bb) all agricultural implements and equipment;

~~(ee)~~(cc) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

~~(ff)~~(dd) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

~~(gg)~~(ee) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

~~(hh)~~(ff) special mobile equipment as defined in 61-1-104;

~~(ii)~~(gg) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

~~(jj)~~(hh) x-ray and medical and dental equipment;

~~(kk)~~(ii) citizens' band radios and mobile telephones;

~~(ll)~~(jj) radio and television broadcasting and transmitting equipment;

~~(mm)~~(kk) cable television systems;

~~(nn)~~(ll) coal and ore haulers;

~~(oo)~~(mm) theater projectors and sound equipment; and

~~(pp)~~(nn) light vehicles as defined in 61-1-139.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal

Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 6. Section 15-6-216, MCA, is amended to read:

"15-6-216. Exemption of improvements made to commercial buildings to remove barriers to persons with disabilities. (1) 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.

(2) A person shall apply for an exemption under this section by March 1 of the tax year for which the exemption is sought, on a form provided by the department of revenue, setting forth the nature of the improvement, the date on which the improvement was completed, and any other information that the department may require.

(3) For the purposes of this section, improvements for the removal of barriers include:

- (a) permanent ramps leading to entrances to the premises and between levels of the premises;
- (b) elevators installed for the use of a person with a disability;
- (c) handrails installed in and about the premises, indoors and outdoors;
- (d) enlarged bathrooms and kitchens and any special equipment installed in them for the benefit of a person with a disability; and
- (e) other reasonable accommodations made for the safety, convenience, and comfort of a person with a disability."

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

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

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by:

- (i) the phasing in of a reappraisal under 15-7-111; ~~or~~
- (ii) the application of the exemption under 15-6-201;
- (iii) an annual adjustment of value as provided in [section 1]; or
- (iv) ~~caused by~~ an incremental change in the tax rate.

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

- (i) the total amount of mills levied against the property in the prior year; and
- (ii) a statement that the notice is not a tax bill.

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

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

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

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

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

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

- (a) the taxpayer has submitted an objection in writing; and
- (b) the department has stated its reason in writing for making the adjustment.

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

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

Section 8. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses and graded within each class according to soil and productive capacity. In the classification work, use must be made of soil surveys and maps and all other pertinent available information.

(3) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(4) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

~~(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111, all property classified in 15-6-134 must be appraised on the taxable portion of its market value in the same year. The department shall publish a rule specifying the year used in the appraisal.~~

~~(6)~~(5) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. In no event may the sewage disposal or domestic water supply systems be included twice by including them in the valuation and assessing them separately."

Section 9. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) (a) 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.

(b) Property in class four must be valued each year as provided in [section 1]. ~~The revaluation of class three, four, and ten property is complete on December 31, 1996. The amount of the change in valuation from the 1996 base year for each property in classes three, four, and ten must be phased in each year at the rate of 25% of the change in valuation from December 31, 1998, to the appropriate percentage of taxable market value for each class.~~

~~(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)~~(2) Beginning January 1, 2001, the 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, 2003, and each succeeding on cycles of 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%. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county."

Section 10. 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. The revaluation of class three, four, and ten property is complete on December 31, 1996. The amount of the change in valuation from the 1996 base year for each property in classes three, ~~four~~, and ten must be phased in each year at the rate of 25% of the change in valuation from December 31, 1998, to the appropriate percentage of taxable market value for each class.

(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) ~~Beginning January 1, 2001, the~~ 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, 2003, and each succeeding 6 years.

(4) ~~The~~ Except as provided in subsection (5), 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 phase in for each year is 16.66%. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county.

(5) Class four property is not subject to the reappraisal value established for January 1, 2003, but is valued as its assessed value was on December 31, 2002. Class four property or the applicable portion of class four property that is constructed, remodeled, destroyed, declines in market value below its assessed value, or is reclassified after December 31, 2002, and before [the effective date of this section] is to be valued according to a trended market value consistent with the valuation of class four property as of December 31, 2002. Class four property that is constructed, remodeled, or reclassified after [the effective date of this section] is to be valued on the market value of the property. All class four property values are to be adjusted by application of the exemptions provided in 15-6-201(1)(z) and (1)(aa)."

Section 11. 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. ~~The revaluation of class three, four, and ten property is complete on~~

December 31, 1996. The amount of the change in valuation from the 1996 base year for each property in classes three, four, and ten must be phased in each year at the rate of 25% of the change in valuation from December 31, 1996, to the appropriate percentage of taxable market value for each class:

(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) ~~Beginning January 1, 2001, the~~ 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, 2003, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. The phasein of the January 1, 2003, values is 25% for each year beginning January 1, 2005, until the next reappraisal. If a percentage of change for each year after the January 2009 reappraisal is not established, then the percentage of phasein for each year is 16.66%. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county."

Section 12. Section 15-7-112, MCA, is amended to read:

"15-7-112. Equalization of valuations. ~~(1) 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.~~

(2) The department shall use the method of appraisal and assessment provided in [section 1] for class four property in each county of the state so that the assessed values of class four properties are equalized on the basis of acquisition value as adjusted under [sections 1 and 2] and as authorized in Article VIII, section 3, of the Montana constitution."

Section 13. Section 15-7-113, MCA, is amended to read:

"15-7-113. Program exclusive. ~~No~~ A program for the revaluation of property ~~shall may not~~ be implemented for taxation in any county other than as prescribed in 15-7-111 through 15-7-114 and [section 1]."

Section 14. Section 15-7-114, MCA, is amended to read:

"15-7-114. Law supplemental. Sections 15-7-111 through 15-7-114 and [section 1] are intended to be supplementary to and are not intended to repeal 15-7-103."

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

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

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

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

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

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

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

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

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

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

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

(ii) Crop share and livestock share arrangements are based on typical agricultural business practices and

average landowner costs.

(iii) 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. Labor and energy costs must be determined as follows:

(A) Labor costs are zero for pivot sprinkler irrigation systems; \$4.50 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and \$9 an acre for hand-moved and flood irrigation systems.

(B) 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)~~ of the next reappraisal. 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. In the event that no energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in the energy cost base year.

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

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

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

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

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

(b) recommend to the department any adjustments to data or to landowners' share percentages if

required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

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

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

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

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

Section 16. Section 15-8-111, MCA, is amended to read:

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

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

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

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

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

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

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

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

(c) the value of property in 15-6-134, under class four, is assessed as provided in [section 1]; and

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

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

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

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

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

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

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

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of ~~market value minus any portion of market value that is exempt from taxation under 15-6-201(1)(z) and (1)(aa)~~ value established pursuant to [section 1].

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

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

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

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

(b) the taxpayer makes a written request; or

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

Section 17. Section 77-1-208, MCA, is amended to read:

"77-1-208. Cabin site licenses and leases -- method of establishing value. (1) The board shall set

the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on appraisal of the cabin site value as determined by the department of revenue. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value ~~may~~ must be increased or decreased as a result of redetermined every 6 years on the year that the statewide periodic revaluation of property is conducted pursuant to 15-7-111. The value is determined without any adjustments as a result of phasing in values. An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, chapter 15.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302, 77-6-303, and 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board."

NEW SECTION. Section 18. Transition -- applicable to class four property -- initial acquisition value. (1) As provided in subsection (2), on January 1, 2005, the department of revenue shall assess all property in class four, under 15-6-134, as provided in [section 1].

(2) To effect the transition, the department of revenue shall assess all class four property subject to the acquisition method of valuation at a base year value for the property for tax year 2005. The base year value is defined as follows:

(a) if the property existed as class four property on December 31, 2002, and remains under the same ownership from that date to January 1, 2005, the base value is the assessed value of the property as of December 31, 2002, as adjusted by application of the exemptions provided in 15-6-201(1)(z) or (1)(aa) and as adjusted under subsection (3) of this section;

(b) 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

(c) if the property is newly constructed or existing property that changed ownership or classification after [the effective date of this section], the base value is the market value of the property as adjusted by application of the exemptions provided in 15-6-201(1)(z) or (1)(aa) and as adjusted under subsection (3) of this section.

(3) The valuation of property in subsection (2) must be adjusted due to addition, remodeling, improvement, destruction, or decrease in market value as of the date of the change and is applicable for the next tax year.

NEW SECTION. **Section 19. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

NEW SECTION. **Section 20. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 7, part 1, and the provisions of Title 15, chapter 7, part 1, apply to [sections 1 and 2].

NEW SECTION. **Section 21. Effective dates -- contingent voidness.** (1) If Senate Bill No. ___ [LC 560] is not passed and approved, then [sections 1 through 9 and 12 through 20] are void.

(2) If Constitutional Amendment No. ___ [LC 560] is approved by the electorate at the general election held in November 2004, then [sections 1 through 9 and 12 through 20] are effective January 1, 2005.

(3) If Constitutional Amendment No. ___ [LC 560] is not approved by the electorate at the general election held in November 2004, then [section 11] is effective and [section 10] is void on January 1, 2005.

(4) [Section 10 and this section] are effective on passage and approval.

- END -

