

HOUSE BILL NO. 658

INTRODUCED BY M. JOPEK

BY REQUEST OF THE SENATE JOINT SELECT COMMITTEE ON REAPPRAISAL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LAWS; MITIGATING THE EFFECTS OF PROPERTY TAX REAPPRAISAL; CHANGING THE TAXABLE RATE OF CLASS FOUR PROPERTY; PHASING IN CHANGES TO THE TAX RATES OF CLASS THREE AND CLASS TEN PROPERTY; ESTABLISHING EXEMPTION RATES FOR RESIDENTIAL AND COMMERCIAL CLASS FOUR PROPERTY; CHANGING THE REAPPRAISAL CYCLE TO 4 YEARS AND PHASING IN VALUES IMPLEMENTED BY REAPPRAISAL OVER 4 YEARS; ESTABLISHING A CIRCUIT BREAKER INCOME TAX CREDIT FOR PROPERTY TAXES BASED ON THE TAXPAYER'S PROPERTY TAX BILL AS A PERCENT OF INCOME AND OTHER FACTORS; ELIMINATING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM, THE PROPERTY TAX EXEMPTION FOR DISABLED OR DECEASED VETERANS, AND THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; PROVIDING FOR AN EXEMPTION OF VALUE FOR QUALIFYING HOMES, INCLUDING RENTAL HOMES; REVISING THE METHOD FOR VALUING AGRICULTURAL PROPERTY BY INCREASING WATER LABOR COSTS FOR IRRIGATED LAND AND CLARIFYING THAT SPRING WHEAT FROM SUMMER FALLOW LAND IS THE BASE CROP FOR NONIRRIGATED LAND; ESTABLISHING A FOREST LANDS TAXATION ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT OF REVENUE IN ITS DETERMINATION OF THE VALUE OF FOREST LANDS; PROVIDING FOR THE APPOINTMENT AND TERMS OF THE MEMBERS OF THE COMMITTEE; AMENDING SECTIONS 2-15-122, 5-2-301, 15-6-133, 15-6-134, 15-6-143, 15-6-193, 15-6-222, 15-7-111, 15-7-201, 15-16-102, 15-44-103, 47-1-111, AND 53-6-1001, MCA; REPEALING SECTIONS 15-6-191, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Property tax circuit breaker -- income tax credit for property taxes. (1)

There is a credit against the taxes imposed by this chapter for a portion of property taxes paid by a person as provided in this section.

(2) The amount of the credit is determined as provided in subsection (4). Only one claim for a credit may

be made with respect to any property.

(3) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no taxable income under this chapter.

(4) (a) The basic credit authorized under this section is the amount by which a claimant's property tax billed or rent-equivalent tax paid exceeds 3% of the claimant's federal adjusted gross income, not to exceed \$1,500.

(b) If a claimant qualifies for a basic credit, in lieu of the basic credit a qualified claimant may be allowed one of the following:

(i) If the claimant is a disabled veteran, the claimant is entitled to 135% of the basic credit.

(ii) If the claimant is the unremarried surviving spouse of a deceased veteran, the claimant is entitled to 125% of the basic credit.

(iii) If the claimant is 62 years of age or older and has income that is less than 66% of the median federal adjusted gross income of Montana residents, the claimant is entitled to 120% of the basic credit.

(iv) If the claimant has income that is less than 33% of the median federal adjusted gross income of Montana residents, the claimant is entitled to 115% of the basic credit.

(5) For the purposes of this section, the following definitions apply:

(a) "Deceased veteran" means a person who was killed while on active duty or died as a result of a service-connected disability.

(b) "Disabled veteran" means a person who:

(i) was honorably discharged from active service in any branch of the armed services; and

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs.

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

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

(e) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land,

not exceeding 1 acre, as is reasonably necessary for its use as a dwelling actually occupied by itself or in combination with one other similar residential dwelling for at least 7 months a year.

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

NEW SECTION. Section 2. Valuation exemption for homes. (1) The following percentage of the taxable value of a qualified home is exempt from property taxation:

Year	Percentage Exempt
2009	5.8%
2010	9.6%
2011	13.4%
2012 and after	17.2%

(2) (a) A person shall initially apply for eligibility and upon becoming eligible shall annually certify eligibility to the department for each home valuation exemption under this section. The certification must be on forms supplied by the department to each residential taxpayer in the state. The department, to the maximum extent possible, shall provide partially completed paper forms and provide access to online or electronic applications and certifications.

(b) (i) The applicant shall certify that the property is a qualified home and that the applicant and the applicant's spouse have applied for no more than two exemptions on qualified homes and provide any other information required by the department to administer the valuation exemption. Information provided to the department to determine eligibility for a tax rate adjustment is subject to the confidentiality provisions in 15-30-303.

(ii) For a qualified home that is rented or leased, the owner shall apply for the valuation exemption and the occupant shall provide annual certifications on behalf of the owner of the property on a single form provided by the department.

(iii) For a multifamily qualified home that is rented or leased, the owner shall apply for the valuation exemption and shall provide annual certifications.

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

(3) (a) (i) A qualified home for the purposes of this section is any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and

actually occupied for at least 7 months a year by itself or in combination with another similar dwelling.

(ii) A dwelling that is otherwise qualified for the exemption due to occupancy by the owner for a period of 7 or more months does not lose the valuation exemption if it is rented or leased for 4 consecutive months or less.

(iii) Residences owned on a time-share basis and living quarters within a commercial structure are not qualified homes.

(b) A home is considered rented or leased to an occupant if the owner provides the home as consideration of employment, the consideration is given at fair market value, and the consideration is reported for income tax purposes.

(c) To qualify under subsection (3)(a) where two homes are occupied by the applicant in combination for a total of 7 or more months, if the titles to the two homes are held in different names because of agricultural custom, family trusts, different last names or other reasons, the department may require an applicant to verify unity of ownership, including copies of corporate or other entity ownership documents and use of federal tax identification numbers.

Section 3. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the "... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii)~~, ~~except that the base income level and appropriate dollar amount must be \$50 a day~~ subsection (11).

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

- (a) the council's name, in accordance with subsection (2);
- (b) the council's composition;
- (c) the appointed members, including names and addresses;
- (d) the council's purpose; and
- (e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless

extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying \$50 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

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

(b) "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."

Section 4. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is

calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

- (a) three additional round trips to their place of residence during each regular session; and
- (b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount 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

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

(b) "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."

Section 5. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the productive capacity value of grazing land, at the average grade of grazing land.

(2) Subject to subsection (3), class three property is taxed at ~~the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a)~~

(a) for tax year 2009, 2.78% of its taxable value;

(b) for tax year 2010, 2.57% of its taxable value;

(c) for tax year 2011, 2.4% of its taxable value;

(d) for tax years after 2011, 2.25% of its taxable value.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land."

Section 6. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(f) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(f) 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)~~(c) 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)~~(d) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

~~(f)~~(e) (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)~~(f) (i) commercial buildings and the parcels of land upon which they are situated; and
 (ii) vacant commercial lots.

(2) Class four property is taxed as follows:

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

- (i) ~~3.22%~~ of its taxable market value in tax year 2005;
- (ii) ~~3.14%~~ of its taxable market value in tax year 2006;
- (iii) ~~3.07%~~ of its taxable market value in tax year 2007; and
- (iv) ~~3.01%~~ 3% of its taxable market value in tax years after 2007.

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

Income	Income	Percentage
Single Person	Married Couple	Multiplier
Head of Household		
\$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.~~

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

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

Section 7. Section 15-6-143, MCA, is amended to read:

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

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

(a) for tax year 2009, 0.35% 0.31% of its forest productivity value;

(b) for tax year 2010, 0.28% of its forest productivity value;

(c) for tax year 2011, 0.25% of its forest productivity value; and

(d) for tax years after 2011, 0.23% of its forest productivity value."

Section 8. Section 15-6-193, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

to the property in the last year of the previous reappraisal cycle.

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

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

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

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

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

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

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to

determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

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

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

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

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

Section 9. Section 15-6-222, MCA, is amended to read:

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

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

~~_____ (b) 32.6% for tax year 2006;~~

~~_____ (c) 33.2% for tax year 2007;~~

~~_____ (d) 34% for tax year 2008 and succeeding tax years.~~

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

(a) ~~43.8%~~ 22% for tax year ~~2005~~ 2009;

(b) ~~44.2%~~ 28% for tax year ~~2006~~ 2010;

(c) ~~44.6%~~ 33% for tax year ~~2007~~ 2011;

(d) ~~45%~~ 37.5% for tax year ~~2008~~ 2012 and succeeding tax years."

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.

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

(3) The revaluation of class three, four, and ten property is complete on December 31, 2008. The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 25% of the change in valuation.

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

~~(3)~~(5) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, ~~2009~~ 2013, effective for January 1, ~~2009~~ 2013, and each succeeding ~~6~~ 4 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 phase in for each year is ~~16.66%~~ 25%."

Section 11. 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~~ \$15 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~~ \$5 an acre for pivot sprinkler irrigation systems; ~~\$4.50~~ \$10 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and ~~\$9~~ \$15 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). 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 spring wheat from summer fallow farm land. 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 12. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 13. Section 15-44-103, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(iii) SV is the stumpage value;

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

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

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

(5) Net income must:

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

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

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

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

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

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

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

(10) (a) There is a forest lands taxation advisory committee. The members of the forest lands taxation advisory committee consist of:

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

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

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

(c) The advisory committee shall:

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

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

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

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

(v) recommend forest land valuation schedules to the department."

Section 14. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may

be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in ~~15-30-174~~ subsection (7), is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

(7) For the purposes of this section, the following definitions apply:

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

(b) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting \$6,300 from gross household income.

(d) (i) "Income" means, except as provided in subsection (7)(d)(ii), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

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

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

(C) alimony;

(D) support money;

(E) nontaxable strike benefits;

(F) cash public assistance and relief;

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

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

(ii) For the purposes of this subsection (7)(d), income is reduced by the taxpayer's basis."

Section 15. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned

by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~45-30-174~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

Section 16. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~45-30-174~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

NEW SECTION. **Section 17. Repealer.** Sections 15-6-191, 15-6-211, 15-30-171, 15-30-172,

15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed.

NEW SECTION. Section 18. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 2].

NEW SECTION. Section 19. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 20. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

- END -

