

1 SENATE BILL NO. 3

2 INTRODUCED BY M. CUFFE

3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FOREST TAXATION LAWS; REVISING THE CLASS
6 TEN FOREST PROPERTY REAPPRAISAL CYCLE; REVISING FOREST PROPERTY TAX RATES;
7 REQUIRING THE DEPARTMENT OF REVENUE TO VALUE FOREST PROPERTY; REVISING THE
8 STUMPAGE VALUE AVERAGING METHOD; AMENDING SECTIONS 15-6-143, 15-7-102, 15-7-111, 15-7-
9 112, AND 15-44-103, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY
10 DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 15-6-143, MCA, is amended to read:

15 **"15-6-143. Class ten property – description – taxable percentage.** (1) Class ten property includes
16 all forest lands, as defined in 15-44-102, and property described in subsection (2).

17 (2) Any parcel of growing timber totaling less than 15 acres qualifies as class ten property if, in a
18 prior year, the parcel totaled 15 acres or more and qualified as forest land but the number of acres was reduced
19 to less than 15 acres for a public use described in 70-30-102 by the federal government, the state, a county, or
20 a municipality and, since that reduction in acres, the parcel has not been further divided.

21 (3) Class ten property is taxed at:

22 (a) ~~0.34%~~ 0.29% of its forest productivity value in tax year ~~2024~~ 2023;

23 (b) ~~0.31%~~ 0.27% of its forest productivity value in tax year ~~2022~~ 2024; and

24 (c) 0.37% of its forest productivity value in tax years after ~~2022~~ 2024."

25
26 **Section 2.** Section 15-7-102, MCA, is amended to read:

27 **"15-7-102. Notice of classification, market value, and taxable value to owners – appeals.** (1) (a)

28 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser

1 under contract for deed a notice that includes the land classification, market value, and taxable value of the
2 land and improvements owned or being purchased. A notice must be mailed or, with property owner consent,
3 provided electronically to the owner only if one or more of the following changes pertaining to the land or
4 improvements have been made since the last notice:

- 5 (i) change in ownership;
- 6 (ii) change in classification;
- 7 (iii) change in valuation; or
- 8 (iv) addition or subtraction of personal property affixed to the land.

9 (b) The notice must include the following for the taxpayer's informational and informal classification
10 and appraisal review purposes:

11 (i) a notice of the availability of all the property tax assistance programs available to property
12 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
13 assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the
14 elderly provided for in 15-30-2337 through 15-30-2341;

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

16 (iii) the market value for the prior reappraisal cycle;

17 (iv) if the market value has increased by more than 10%, an explanation for the increase in
18 valuation;

19 (v) a statement that the notice is not a tax bill; and

20 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
21 on the notice and returning it to the department.

22 (c) When the department uses an appraisal method that values land and improvements as a unit,
23 including the sales comparison approach for residential condominiums or the income approach for commercial
24 property, the notice must contain a combined appraised value of land and improvements.

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

27 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
28 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice

1 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
2 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
3 changes over the prior tax year.

4 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
5 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
6 15-1-402.

7 (c) The department is not required to mail or provide electronically the notice to a new owner or
8 purchaser under contract for deed unless the department has received the realty transfer certificate from the
9 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
10 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
11 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

12 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
13 market value of the property as determined by the department or with the classification of the land or
14 improvements, the owner may request an informal classification and appraisal review by submitting an
15 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
16 notice and returning it to the department in a manner prescribed by the department.

17 (i) For property other than class three property described in 15-6-133, class four property
18 described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30
19 days from the date on the notice.

20 (ii) For class three property described in 15-6-133, ~~and~~ class four property described in 15-6-134,
21 and class ten property described in 15-6-143, the objection may be made only once each valuation cycle. An
22 objection must be made in writing or by checking a box on the notice within 30 days from the date on the
23 classification and appraisal notice for a reduction in the appraised value to be considered for both years of the
24 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal
25 notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the
26 second year of the valuation cycle, the taxpayer shall make the objection in writing or by checking a box on the
27 notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is
28 received in the second year of the valuation cycle, within 30 days from the date on the notice.

1 ~~(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once~~
2 ~~each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days~~
3 ~~from the date on the classification and appraisal notice for a reduction in the appraised value to be considered~~
4 ~~for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the~~
5 ~~classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal~~
6 ~~cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer shall make the~~
7 ~~objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is~~
8 ~~being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle,~~
9 ~~within 30 days from the date on the notice.~~

10 (b) If the objection relates to residential or commercial property and the objector agrees to the
11 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
12 8 weeks of submission of the objection, the following information:

13 (i) the methodology and sources of data used by the department in the valuation of the property;
14 and

15 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that
16 the methodology was used.

17 (c) At the request of the objector or a representative of the objector, and only if the objector or
18 representative signs a written or electronic confidentiality agreement, the department shall provide in written or
19 electronic form:

20 (i) comparable sales data used by the department to value the property;

21 (ii) sales data used by the department to value residential property in the property taxpayer's
22 market model area; and

23 (iii) if the cost approach was used by the department to value residential property, the
24 documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

25 (d) For properties valued using the income approach as one approximation of market value, notice
26 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the
27 receipt of all aggregate model output that the department used in the valuation model for the property.

28 (e) The review must be conducted informally and is not subject to the contested case procedures

1 of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
2 selling price of the property and other relevant information presented by the taxpayer in support of the
3 taxpayer's opinion as to the market value of the property. The department shall consider an independent
4 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
5 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the
6 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall
7 provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to
8 the taxpayer of the time and place of the review.

9 (f) After the review, the department shall determine the correct appraisal and classification of the
10 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
11 not determine an appraised value that is higher than the value that was the subject of the objection unless the
12 reason for an increase was the result of a physical change in the property or caused by an error in the
13 description of the property or data available for the property that is kept by the department and used for
14 calculating the appraised value. In the notification, the department shall state its reasons for revising the
15 classification or appraisal. When the proper appraisal and classification have been determined, the land must
16 be classified and the improvements appraised in the manner ordered by the department.

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

19 (a) the taxpayer has submitted an objection on written or electronic forms provided by the
20 department or by checking a box on the notice; and

21 (b) the department has provided to the objector by mail or electronically its stated reason in writing
22 for making the adjustment.

23 (5) A taxpayer's written objection or objection made by checking a box on the notice and
24 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
25 appraisal and the department's notification to the taxpayer of its determination and the reason for that
26 determination are public records. The department shall make the records available for inspection during regular
27 office hours.

28 (6) If a property owner feels aggrieved by the classification or appraisal made by the department

1 after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax
 2 appeal board and then to the Montana tax appeal board, whose findings are final subject to the right of review
 3 in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days
 4 from the date on the notice of the department's determination. A county tax appeal board or the Montana tax
 5 appeal board may consider the actual selling price of the property, independent appraisals of the property, and
 6 other relevant information presented by the taxpayer as evidence of the market value of the property. If the
 7 county tax appeal board or the Montana tax appeal board determines that an adjustment should be made, the
 8 department shall adjust the base value of the property in accordance with the board's order."

9

10 **Section 3.** Section 15-7-111, MCA, is amended to read:

11 **"15-7-111. Periodic reappraisal of certain taxable property.** (1) The department shall administer
 12 and supervise a program for the reappraisal of all taxable property within class three under 15-6-133, class four
 13 under 15-6-134, and class ten under 15-6-143 as provided in this section. All other property must be revalued
 14 annually. ~~Beginning January 1, 2015, all~~ All property within class three, ~~and class four, and class ten~~ must be
 15 revalued every 2 years, ~~and all property within class ten must be revalued every 6 years.~~

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

21 (3) The reappraisal of class three, ~~and class four, and class ten~~ property is complete on December
 22 31 of every second year of the reappraisal cycle, ~~and the reappraisal of class ten property is complete on~~
 23 ~~December 31 of the sixth year of the reappraisal cycle. The amount of the change in valuation from the base~~
 24 ~~year for class ten property must be phased in each year at the rate of 16.66% of the change in valuation.~~

25 (4) During the second year of each reappraisal cycle, the department shall provide the revenue
 26 interim committee with a report, in accordance with 5-11-210, of tax rates for the upcoming reappraisal cycle
 27 that will result in taxable value neutrality for each property class.

28 (5) The department shall administer and supervise a program for the reappraisal of all taxable

1 property within ~~classes class three, and class four, and class ten~~. The department shall adopt a reappraisal
 2 plan by rule. The reappraisal plan adopted must provide that all class three, ~~and class four, and class ten~~
 3 property in each county is revalued by January 1 of the second year of the reappraisal cycle, effective for
 4 January 1 of the following year, and each succeeding 2 years, ~~and must provide that all class ten property in~~
 5 ~~each county is revalued by January 1, 2015, effective for January 1, 2015, and each succeeding 6 years. The~~
 6 ~~resulting valuation changes for class ten property must be phased in for each year until the next reappraisal. If~~
 7 ~~a percentage of change for each year is not established, then the percentage of phase in for class ten property~~
 8 ~~each year is 16.66%.~~

9 (6) (a) In completing the appraisal or adjustments under subsection (5), the department shall, as
 10 provided in the reappraisal plan, conduct individual property inspections, building permit reviews, sales data
 11 verification reviews, and electronic data reviews. The department may adopt new technologies for recognizing
 12 changes to property.

13 (b) The department shall conduct a field inspection of a sufficient number of taxable properties to
 14 meet the requirements of subsection (5).

15 (7) (a) In each notice of reappraisal sent to a taxpayer, the department, with the support of the
 16 department of administration, shall provide to the taxpayer information on:

17 (i) the consumer price index adjusted for population and the average annual growth rate of
 18 Montana personal income; and

19 (ii) the estimated annualized change in property taxes levied over the previous 10 years by the
 20 state, county, and any incorporated cities or towns within the county and local school average mills by county.

21 (b) In every even-numbered year, the department shall publish in a newspaper of general
 22 circulation in each county the information required pursuant to subsection (7)(a) by the second Monday in
 23 October."

24

25 **Section 4.** Section 15-7-112, MCA, is amended to read:

26 "**15-7-112. Equalization of valuations.** The method of appraisal and assessment provided for in 15-
 27 7-111 must be used in each county of the state so that comparable properties with similar full market values
 28 and subject to taxation in Montana have substantially equal taxable values in the tax year ~~and, for class ten~~

1 ~~property, substantially equal taxable values at the end of each cyclical revaluation cycle."~~

2

3 **Section 5.** Section 15-44-103, MCA, is amended to read:

4 **"15-44-103. Legislative intent -- value of forest lands -- valuation zones.** (1) In order to encourage
5 landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest
6 practices, and to encourage the investment of capital in reforestation, forest lands must be classified and
7 assessed under the provisions of this section.

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

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

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

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

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

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

19 (4) In computing the forest land productivity valuation for each forest valuation zone, the
20 department shall determine the productive capacity value of all forest lands in each forest valuation zone using
21 the formula $V = I/R$, where:

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

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

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

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

27 (iii) SV is the stumpage value;

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

- 1 (v) C is the per-unit cost of the forest product and agricultural product produced, if any; and
- 2 (c) R is the capitalization rate determined by the department as provided in subsection (6).
- 3 (5) Net income must:
- 4 (a) be calculated for each year of a base period, which is the most recent 10-year period for which
- 5 data is available prior to the date the revaluation cycle ends. Data referred to in subsection (4)(b) must be
- 6 averaged.
- 7 (b) be based on ~~a rolling the~~ average of stumpage value of timber harvested within the forest
- 8 valuation zone, excluding the lowest and highest annual stumpage value in the period, and on the associated
- 9 production cost data for the base period from sources considered appropriate by the department; and
- 10 (c) include agriculture-related net income for the same time period as the period used to determine
- 11 average stumpage values.
- 12 (6) The capitalization rate must be calculated for each year of the base period and is the average
- 13 capitalization rate determined by the department after consultation with the forest lands taxation advisory
- 14 committee, plus the effective tax rate. The capitalization rate must be adopted by rule. However, the
- 15 capitalization rate for each year of the base period may not be less than 8%.
- 16 (7) The effective tax rate must be calculated for each year of the base period by dividing the total
- 17 estimated tax due on forest lands subject to the provisions of this section by the total forest value of those
- 18 lands.
- 19 (8) For the purposes of this section, if forest service sales are used in the determination of
- 20 stumpage values, the department shall take into account purchaser road credits.
- 21 ~~(9) In determining the forest productivity value of forest lands and in computing the forest land~~
- 22 ~~valuation, the department shall use information and data provided by the university of Montana-Missoula.~~
- 23 ~~(4)(9)~~ (a) There is a forest lands taxation advisory committee consisting of:
- 24 (i) four members with expertise in forest matters, one appointed by the majority leader of the
- 25 senate, one by the minority leader of the senate, one by the majority leader of the house of representatives,
- 26 and one by the minority leader of the house of representatives; and
- 27 (ii) five members appointed by the governor, two who are industrial forest landowners, two who
- 28 are nonindustrial forest landowners, and one who is a county commissioner.

1 (b) The committee must be appointed and convened no later than July 1 of the year that is 2 years
 2 prior to the first year of each reappraisal cycle. The terms of the members expire on June 30 of the first year of
 3 each reappraisal cycle.

4 (c) The advisory committee shall:

5 (i) review data required by subsections (2) through (6), and (8), ~~and (9)~~, including data on
 6 productivity value, stumpage value, wood production, capitalization rate, net income, and agriculture-related
 7 income;

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

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

11 (iv) verify for each forest valuation zone and forest land classification and subclassification under
 12 subsection (3) that the income determined in subsection (5) reasonably approximates that which the average
 13 Montana forest landowner could have attained;

14 (v) recommend forest land valuation techniques to the department;

15 (vi) meet in Montana at least once a year; and

16 ~~(vi)~~(vii) report biennially on committee activity, in accordance with 5-11-210, to the revenue interim
 17 committee provided for in 5-5-227.

18 ~~(11) The members of the forest lands taxation advisory committee must be appointed and the~~
 19 ~~committee must be convened no later than July 15, 2021, for the specific purpose of reviewing appraisal~~
 20 ~~methodology with the department. For the period of July 1, 2021, through December 31, 2022, the committee~~
 21 ~~shall work with the department to fulfill the requirements of the committee as outlined in subsection (10)(c) and~~
 22 ~~bring forward updates to the revenue interim committee and any recommended changes to the 2023~~
 23 ~~legislature. If the committee does not meet, the department or the committee shall inform the revenue interim~~
 24 ~~committee. (Subsection (11) terminates June 30, 2023—sec. 3, Ch. 141, L. 2021.)"~~

25
 26 **NEW SECTION. Section 6. Effective dates.** (1) Except as provided in subsection (2), [this act] is
 27 effective on passage and approval.

28 (2) [Sections 2 through 5] are effective January 1, 2025.

