

HOUSE BILL NO. 801

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

IN THE HOUSE

FEBRUARY 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

MARCH 28, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

APRIL 1, 1991 PRINTING REPORT.

APRIL 2, 1991 SECOND READING, DO PASS.

APRIL 3, 1991 ENGROSSING REPORT.

APRIL 4, 1991 THIRD READING, PASSED.
AYES, 62; NOES, 38.

 TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

APRIL 10, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 15, 1991 SECOND READING, CONCURRED IN.

APRIL 16, 1991 THIRD READING, CONCURRED IN.
AYES, 44; NOES, 5.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 16, 1991 RECEIVED FROM SENATE.

APRIL 18, 1991 SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 19, 1991 ON MOTION, CONFERENCE COMMITTEE

REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 24, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 25, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL, NO. 801
 2 INTRODUCED BY Menahan Haurwitz B. McCarley
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED
 5 PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC
 6 POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR
 7 A METHOD OF APPRAISING POLLUTED PROPERTY; AMENDING SECTIONS
 8 15-1-101, 15-7-103, AND 15-8-111, MCA; AND PROVIDING AN
 9 APPLICABILITY DATE."
 10

11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because
 13 [section 3] requires the department of revenue to adopt
 14 rules for the appraisal of polluted property. At a minimum,
 15 the legislature intends that the rules should include but
 16 not be limited to procedures for determining:

17 (1) which parcels of land and which improvements are
 18 environmentally unsound or nonproductive as a result of
 19 mining, smelting, refining, or other human activity;

20 (2) the value of such property, recognizing the state's
 21 policy that polluted property should be valued as if it were
 22 environmentally sound and productive; and

23 (3) the point at which property previously meeting the
 24 definition of polluted property is no longer polluted.

25 In determining a general and uniform procedure for

1 determining which property is polluted, the department of
 2 revenue may use the expertise of or definitions used by a
 3 department or agency of the state of Montana or the United
 4 States.

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

7 NEW SECTION. Section 1. Class twenty-one property --
 8 description -- taxable percentage. (1) Class twenty-one
 9 property includes all property defined as "polluted
 10 property" under 15-1-101.

11 (2) Class twenty-one property is taxed at twice the
 12 taxable percentage rate applicable to class four property
 13 under 15-6-134(2)(a).

14 NEW SECTION. Section 2. Policy. It is the policy of
 15 the state of Montana that an incentive should be provided to
 16 the owners of polluted property that has been rendered
 17 environmentally unsound or nonproductive because of
 18 pollution from mining, smelting, refining, or other human
 19 activity to make the property environmentally sound and
 20 productive. To carry out this policy, the state of Montana
 21 finds that polluted property should be valued as if it were
 22 productive and environmentally sound but taxed at a rate
 23 higher than other property. The incentive provided through
 24 this policy is for the owners of polluted property to return
 25 the land or improvements to an environmentally sound and

1 productive state, thereby causing the polluted property to
2 be taxed at a lower rate.

3 NEW SECTION. Section 3. Valuation -- minimum --
4 rulemaking. (1) The value of polluted property may not be
5 less than the average value of all other commercial and
6 industrial property in the county.

7 (a) For polluted land, value may be determined by
8 square footage, acreage, or similar measure.

9 (b) For polluted improvements, value must be determined
10 by replacement cost without adjustment for depreciation of
11 any kind.

12 (2) The department of revenue shall promulgate rules to
13 ensure that polluted property is appraised and assessed as
14 if it were environmentally sound and productive.

15 **Section 4.** Section 15-1-101, MCA, is amended to read:

16 "15-1-101. Definitions. (1) Except as otherwise
17 specifically provided, when terms mentioned in this section
18 are used in connection with taxation, they are defined in
19 the following manner:

20 (a) The term "agricultural" refers to the raising of
21 livestock, poultry, bees, and other species of domestic
22 animals and wildlife in domestication or a captive
23 environment, and the raising of field crops, fruit, and
24 other animal and vegetable matter for food or fiber.

25 (b) The term "assessed value" means the value of

1 property as defined in 15-8-111.

2 (c) The term "average wholesale value" means the value
3 to a dealer prior to reconditioning and profit margin shown
4 in national appraisal guides and manuals or the valuation
5 schedules of the department of revenue.

6 (d) (i) The term "commercial", when used to describe
7 property, means any property used or owned by a business, a
8 trade, or a nonprofit corporation as defined in 35-2-102 or
9 used for the production of income, except that property
10 described in subsection (ii).

11 (ii) The following types of property are not commercial:

12 (A) agricultural lands;

13 (B) timberlands;

14 (C) single-family residences and ancillary improvements
15 and improvements necessary to the function of a bona fide
16 farm, ranch, or stock operation;

17 (D) mobile homes used exclusively as a residence except
18 when held by a distributor or dealer of trailers or mobile
19 homes as his stock in trade;

20 (E) all property described in 15-6-135; and

21 (F) all property described in 15-6-136.

22 (e) The term "comparable property" means property that
23 has similar use, function, and utility; that is influenced
24 by the same set of economic trends and physical,
25 governmental, and social factors; and that has the potential

1 of a similar highest and best use.

2 (f) The term "credit" means solvent debts, secured or
3 unsecured, owing to a person.

4 (g) The term "improvements" includes all buildings,
5 structures, fences, and improvements situated upon, erected
6 upon, or affixed to land. When the department of revenue or
7 its agent determines that the permanency of location of a
8 mobile home or housetrailer has been established, the mobile
9 home or housetrailer is presumed to be an improvement to
10 real property. A mobile home or housetrailer may be
11 determined to be permanently located only when it is
12 attached to a foundation which cannot feasibly be relocated
13 and only when the wheels are removed.

14 (h) The term "leasehold improvements" means
15 improvements to mobile homes and mobile homes located on
16 land owned by another person. This property is assessed
17 under the appropriate classification and the taxes are due
18 and payable in two payments as provided in 15-24-202.
19 Delinquent taxes on such leasehold improvements are a lien
20 only on such leasehold improvements.

21 (i) The term "livestock" means cattle, sheep, swine,
22 goats, horses, mules, and asses.

23 (j) The term "mobile home" means forms of housing known
24 as "trailers", "housetrailers", or "trailer coaches"
25 exceeding 8 feet in width or 45 feet in length, designed to

1 be moved from one place to another by an independent power
2 connected to them, or any "trailer", "housetrailer", or
3 "trailer coach" up to 8 feet in width or 45 feet in length
4 used as a principal residence.

5 (k) The term "personal property" includes everything
6 that is the subject of ownership but that is not included
7 within the meaning of the terms "real estate" and
8 "improvements".

9 (l) The term "polluted property" means land or
10 improvements that have been rendered environmentally unsound
11 or nonproductive because of the effects of mining, smelting,
12 refining, or other human activity.

13 (m) The term "poultry" includes all chickens,
14 turkeys, geese, ducks, and other birds raised in
15 domestication to produce food or feathers.

16 (n) The term "property" includes moneys, credits,
17 bonds, stocks, franchises, and all other matters and things,
18 real, personal, and mixed, capable of private ownership.
19 This definition must not be construed to authorize the
20 taxation of the stocks of any company or corporation when
21 the property of such company or corporation represented by
22 the stocks is within the state and has been taxed.

23 (o) The term "real estate" includes:

24 (i) the possession of, claim to, ownership of, or right
25 to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(o)(p) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(p)(q) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(q)(r) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person,

persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 5. Section 15-7-103, MCA, is amended 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 said 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;

(e) for a general and uniform method of appraising polluted property.

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

1 pertinent available information.

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

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

11 (5) In any periodic revaluation of taxable property
12 completed under the provisions of 15-7-111 after January 1,
13 1986, all property classified in 15-6-134 must be appraised
14 on its market value in the same year. The department shall
15 publish a rule specifying the year used in the appraisal.

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

23 **Section 6.** Section 15-8-111, MCA, is amended to read:

24 "15-8-111. Assessment -- market value standard --
25 exceptions. (1) All taxable property must be assessed at

1 100% of its market value except as otherwise provided.

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

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

11 (c) Except as provided in subsection (3), the market
12 value of all motor trucks; agricultural tools, implements,
13 and machinery; and vehicles of all kinds, including but not
14 limited to boats and all watercraft, is the average
15 wholesale value shown in national appraisal guides and
16 manuals or the value of the vehicle before reconditioning
17 and profit margin. The department of revenue shall prepare
18 valuation schedules showing the average wholesale value when
19 no national appraisal guide exists.

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

24 (a) the wholesale value for agricultural implements and
25 machinery is the loan value as shown in the Official Guide,

1 Tractor and Farm Equipment, published by the national farm
2 and power equipment dealers association, St. Louis,
3 Missouri;

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

8 (c) as otherwise authorized in Title 15 and Title 61.

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

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

14 (6) The assessed value of properties in 15-6-131
15 through 15-6-133 is as follows:

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

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

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

1 lands for tax purposes.

2 (d) Properties in 15-6-143, under class thirteen, are
3 assessed at 100% of the combined appraised value of the
4 standing timber and grazing productivity of the land when
5 valued as timberland.

6 (7) Properties in [section 1] are assessed at 100% of
7 market value as provided in [section 3].

8 ~~(7)~~(8) Land and the improvements thereon are separately
9 assessed when any of the following conditions occur:

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

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

13 (c) the land is outside an incorporated city or town.
14 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
15 681, L. 1985.)"

16 NEW SECTION. Section 7. Codification instruction. (1)
17 [Section 1] is intended to be codified as an integral part
18 of Title 15, chapter 6, part 1, and the provisions of Title
19 15, chapter 6, part 1, apply to [section 1].

20 (2) [Sections 2 and 3] are intended to be codified as
21 an integral part of Title 15, chapter 7, and the provisions
22 of Title 15, chapter 7, apply to [sections 2 and 3].

23 NEW SECTION. Section 8. Applicability. [This act]
24 applies to taxable years beginning after December 31, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0801, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act defining polluted property for the purposes of taxation; establishing a public policy for the taxation of polluted property; providing for a method of appraising polluted property; and providing an applicability date.

FISCAL IMPACT:

The proposal will result in an increase in local and state property tax revenues beginning in FY94. However, the department has no information regarding the current taxable valuation of land that would be subject to the provisions of this bill in order to provide an accurate estimate of the extent of the revenue increase.

The proposal will create additional workload for appraisal staff. This additional work will be in the form of appraising polluted land and in defending the appraisals when challenged. It should be noted that the department has no expertise with the environmental considerations of this proposal.

Technical Notes:

Under the proposal, it appears the property owner of polluted land is liable for the higher tax liability regardless of the source of pollution. For example, the property owner of polluted land is liable for the higher tax liability even if it was a neighbor who caused the pollution.

The proposal would increase the taxable value of polluted land in two ways. First, the polluted land would be appraised as if it were environmentally sound and productive, resulting in a higher assessment than under current law. Second, the tax rate for polluted land would be double that of current law.



ROD SUNDESTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE



WILLIAM T. "RED" MENAHAN, PRIMARY SPONSOR

DATE

2/20/91

Fiscal Note for HB0801, as introduced

HB 801

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 801

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR A METHOD OF APPRAISING POLLUTED PROPERTY; PROVIDING THAT UNPAID TAXES ON CLASS TWENTY-ONE PROPERTY ARE A LIEN ON ALL OTHER PROPERTY OWNED BY THE OWNER OF THE CLASS TWENTY-ONE PROPERTY; AMENDING SECTIONS 15-1-101, 15-7-103, AND 15-8-111, AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] requires the department of revenue to adopt rules for the appraisal of polluted property. At a minimum, the legislature intends that the rules should include but not be limited to procedures for determining:

(1) which parcels of land and which improvements are environmentally unsound or nonproductive as a result of mining, smelting, refining, or other human activity;

(2) the value of such property, recognizing the state's policy that polluted property should be valued as if it were environmentally sound and productive; and

(3) the point at which property previously meeting the definition of polluted property is no longer polluted.

In determining a general and uniform procedure for determining which property is polluted, the department of revenue may use the expertise of or definitions used by a department or agency of the state of Montana or the United States.

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

NEW SECTION. Section 1. Class twenty-one property -- description -- taxable percentage. (1) Class twenty-one property includes all property defined as "polluted property" under 15-1-101.

(2) Class twenty-one property is taxed at ~~twice--the taxable--percentage--rate--applicable-to-class-four-property under-15-6-134(2)(a)~~ 8% OF MARKET VALUE.

NEW SECTION. Section 2. Policy. It is the policy of the state of Montana that an incentive should be provided to the owners of polluted property that has been rendered environmentally unsound or nonproductive because of pollution from mining, smelting, refining, or other human activity to make the property environmentally sound and productive. To carry out this policy, the state of Montana finds that polluted property should be valued as if it were productive and environmentally sound but taxed at a rate

1 higher than other property. The incentive provided through
 2 this policy is for the owners of polluted property to return
 3 the land or improvements to an environmentally sound and
 4 productive state, thereby causing the polluted property to
 5 be taxed at a lower rate.

6 NEW SECTION. Section 3. Valuation -- minimum --
 7 rulemaking. (1) The value of polluted property may not be
 8 less than the average value of all other commercial and
 9 industrial property in the county AND MAY NOT BE LESS THAN
 10 \$100 PER ACRE.

11 (a) For polluted land, value may be determined by
 12 square footage, acreage, or similar measure.

13 (b) For polluted improvements, value must be determined
 14 by replacement cost without adjustment for depreciation of
 15 any kind.

16 (2) The department of revenue shall promulgate rules to
 17 ensure that polluted property is appraised and assessed as
 18 if it were environmentally sound and productive.

19 **Section 4.** Section 15-1-101, MCA, is amended to read:

20 **"15-1-101. Definitions.** (1) Except as otherwise
 21 specifically provided, when terms mentioned in this section
 22 are used in connection with taxation, they are defined in
 23 the following manner:

24 (a) The term "agricultural" refers to the raising of
 25 livestock, poultry, bees, and other species of domestic

1 animals and wildlife in domestication or a captive
 2 environment, and the raising of field crops, fruit, and
 3 other animal and vegetable matter for food or fiber.

4 (b) The term "assessed value" means the value of
 5 property as defined in 15-8-111.

6 (c) The term "average wholesale value" means the value
 7 to a dealer prior to reconditioning and profit margin shown
 8 in national appraisal guides and manuals or the valuation
 9 schedules of the department of revenue.

10 (d) (i) The term "commercial", when used to describe
 11 property, means any property used or owned by a business, a
 12 trade, or a nonprofit corporation as defined in 35-2-102 or
 13 used for the production of income, except that property
 14 described in subsection (ii).

15 (ii) The following types of property are not commercial:

16 (A) agricultural lands;

17 (B) timberlands;

18 (C) single-family residences and ancillary improvements
 19 and improvements necessary to the function of a bona fide
 20 farm, ranch, or stock operation;

21 (D) mobile homes used exclusively as a residence except
 22 when held by a distributor or dealer of trailers or mobile
 23 homes as his stock in trade;

24 (E) all property described in 15-6-135; and

25 (F) all property described in 15-6-136.

1 (e) The term "comparable property" means property that
 2 has similar use, function, and utility; that is influenced
 3 by the same set of economic trends and physical,
 4 governmental, and social factors; and that has the potential
 5 of a similar highest and best use.

6 (f) The term "credit" means solvent debts, secured or
 7 unsecured, owing to a person.

8 (g) The term "improvements" includes all buildings,
 9 structures, fences, and improvements situated upon, erected
 10 upon, or affixed to land. When the department of revenue or
 11 its agent determines that the permanency of location of a
 12 mobile home or housetrailer has been established, the mobile
 13 home or housetrailer is presumed to be an improvement to
 14 real property. A mobile home or housetrailer may be
 15 determined to be permanently located only when it is
 16 attached to a foundation which cannot feasibly be relocated
 17 and only when the wheels are removed.

18 (h) The term "leasehold improvements" means
 19 improvements to mobile homes and mobile homes located on
 20 land owned by another person. This property is assessed
 21 under the appropriate classification and the taxes are due
 22 and payable in two payments as provided in 15-24-202.
 23 Delinquent taxes on such leasehold improvements are a lien
 24 only on such leasehold improvements.

25 (i) The term "livestock" means cattle, sheep, swine,

1 goats, horses, mules, and asses.

2 (j) The term "mobile home" means forms of housing known
 3 as "trailers", "housetrainers", or "trailer coaches"
 4 exceeding 8 feet in width or 45 feet in length, designed to
 5 be moved from one place to another by an independent power
 6 connected to them, or any "trailer", "housetrailer", or
 7 "trailer coach" up to 8 feet in width or 45 feet in length
 8 used as a principal residence.

9 (k) The term "personal property" includes everything
 10 that is the subject of ownership but that is not included
 11 within the meaning of the terms "real estate" and
 12 "improvements".

13 (l) The term "polluted property" means land or
 14 improvements that have been:

15 (I) rendered environmentally unsound or nonproductive
 16 because of the effects of mining, smelting, refining, or
 17 other human activity; AND

18 (II) LISTED AS A NATIONAL PRIORITY LIST SITE AS DEFINED
 19 IN THE FEDERAL COMPREHENSIVE, ENVIRONMENTAL RESPONSE,
 20 COMPENSATION, AND LIABILITY ACT OF 1980, AS AMENDED.

21 ~~(m)~~ (m) The term "poultry" includes all chickens,
 22 turkeys, geese, ducks, and other birds raised in
 23 domestication to produce food or feathers.

24 ~~(n)~~ (n) The term "property" includes moneys, credits,
 25 bonds, stocks, franchises, and all other matters and things,

1 real, personal, and mixed, capable of private ownership.
 2 This definition must not be construed to authorize the
 3 taxation of the stocks of any company or corporation when
 4 the property of such company or corporation represented by
 5 the stocks is within the state and has been taxed.

6 ~~(n)~~(o) The term "real estate" includes:

7 (i) the possession of, claim to, ownership of, or right
 8 to the possession of land;

9 (ii) all mines, minerals, and quarries in and under the
 10 land subject to the provisions of 15-23-501 and Title 15,
 11 chapter 23, part 8; all timber belonging to individuals or
 12 corporations growing or being on the lands of the United
 13 States; and all rights and privileges appertaining thereto.

14 ~~(o)~~(p) "Research and development firm" means an entity
 15 incorporated under the laws of this state or a foreign
 16 corporation authorized to do business in this state whose
 17 principal purpose is to engage in theoretical analysis,
 18 exploration, and experimentation and the extension of
 19 investigative findings and theories of a scientific and
 20 technical nature into practical application for experimental
 21 and demonstration purposes, including the experimental
 22 production and testing of models, devices, equipment,
 23 materials, and processes.

24 ~~(p)~~(q) The term "taxable value" means the percentage of
 25 market or assessed value as provided for in Title 15,

1 chapter 6, part 1.

2 ~~(q)~~(r) The term "weighted mean assessment ratio" means
 3 the total of the assessed values divided by the total of the
 4 selling prices of all area sales in the stratum.

5 (2) The phrase "municipal corporation" or
 6 "municipality" or "taxing unit" shall be deemed to include a
 7 county, city, incorporated town, township, school district,
 8 irrigation district, drainage district, or any person,
 9 persons, or organized body authorized by law to establish
 10 tax levies for the purpose of raising public revenue.

11 (3) The term "state board" or "board" when used without
 12 other qualification shall mean the state tax appeal board."

13 **Section 5.** Section 15-7-103, MCA, is amended to read:

14 "15-7-103. Classification and appraisal -- general and
 15 uniform methods. (1) It is the duty of the department of
 16 revenue to implement the provisions of 15-7-101 through
 17 15-7-103 by providing:

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

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

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

1 (d) for a general and uniform method of appraising
2 timberlands;

3 (e) for a general and uniform method of appraising
4 polluted property.

5 (2) All lands shall be classified according to their
6 use or uses and graded within each class according to soil
7 and productive capacity. In such classification work, use
8 shall be made of soil surveys and maps and all other
9 pertinent available information.

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

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

19 (5) In any periodic revaluation of taxable property
20 completed under the provisions of 15-7-111 after January 1,
21 1986, all property classified in 15-6-134 must be appraised
22 on its market value in the same year. The department shall
23 publish a rule specifying the year used in the appraisal.

24 (6) All sewage disposal systems and domestic use water
25 supply systems of all dwellings may not be appraised,

1 assessed, and taxed separately from the land, house, or
2 other improvements in which they are located. In no event
3 may the sewage disposal or domestic water supply systems be
4 included twice by including them in the valuation and
5 assessing them separately."

6 **Section 6.** Section 15-8-111, MCA, is amended to read:

7 "15-8-111. Assessment -- market value standard --
8 exceptions. (1) All taxable property must be assessed at
9 100% of its market value except as otherwise provided.

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

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

19 (c) Except as provided in subsection (3), the market
20 value of all motor trucks; agricultural tools, implements,
21 and machinery; and vehicles of all kinds, including but not
22 limited to boats and all watercraft, is the average
23 wholesale value shown in national appraisal guides and
24 manuals or the value of the vehicle before reconditioning
25 and profit margin. The department of revenue shall prepare

1 valuation schedules showing the average wholesale value when
2 no national appraisal guide exists.

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

7 (a) the wholesale value for agricultural implements and
8 machinery is the loan value as shown in the Official Guide,
9 Tractor and Farm Equipment, published by the national farm
10 and power equipment dealers association, St. Louis,
11 Missouri;

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

16 (c) as otherwise authorized in Title 15 and Title 61.

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

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

22 (6) The assessed value of properties in 15-6-131
23 through 15-6-133 is as follows:

24 (a) Properties in 15-6-131, under class one, are
25 assessed at 100% of the annual net proceeds after deducting

1 the expenses specified and allowed by 15-23-503 or, if
2 applicable, as provided in 15-23-515.

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

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

10 (d) Properties in 15-6-143, under class thirteen, are
11 assessed at 100% of the combined appraised value of the
12 standing timber and grazing productivity of the land when
13 valued as timberland.

14 (7) Properties in [section 1] are assessed at 100% of
15 market value as provided in [section 3].

16 ~~(7)~~(8) Land and the improvements thereon are separately
17 assessed when any of the following conditions occur:

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

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

21 (c) the land is outside an incorporated city or town.
22 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
23 681, L. 1985.)"

24 **SECTION 7. SECTION 15-16-403, MCA, IS AMENDED TO READ:**

25 "15-16-403. Lien on real property and improvements. (1)

1 Every tax due upon real property is a lien against the
2 property assessed, and every tax due upon improvements upon
3 real estate assessed to other than the owner of the real
4 estate is a lien upon the land and improvements, which
5 several liens attach as of January 1 in each year.

6 (2) A tax due on class twenty-one property is a lien
7 against all real and personal property owned by the owner of
8 the class twenty-one property as well as a lien upon the
9 property upon which the taxes are due."

10 NEW SECTION. Section 8. Codification instruction. (1)
11 [Section 1] is intended to be codified as an integral part
12 of Title 15, chapter 6, part 1, and the provisions of Title
13 15, chapter 6, part 1, apply to [section 1].

14 (2) [Sections 2 and 3] are intended to be codified as
15 an integral part of Title 15, chapter 7, and the provisions
16 of Title 15, chapter 7, apply to [sections 2 and 3].

17 NEW SECTION. Section 9. Applicability. [This act]
18 applies to taxable years beginning after December 31, 1992.

-End-

1 HOUSE BILL NO. 801
 2 INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED
 5 PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC
 6 POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR
 7 A METHOD OF APPRAISING POLLUTED PROPERTY; PROVIDING THAT
 8 UNPAID TAXES ON CLASS TWENTY-ONE PROPERTY ARE A LIEN ON ALL
 9 OTHER PROPERTY OWNED BY THE OWNER OF THE CLASS TWENTY-ONE
 10 PROPERTY; AMENDING SECTIONS 15-1-101, 15-7-103, AND
 11 15-8-111, AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY
 12 DATE."

13
 14 STATEMENT OF INTENT
 15 A statement of intent is required for this bill because
 16 [section 3] requires the department of revenue to adopt
 17 rules for the appraisal of polluted property. At a minimum,
 18 the legislature intends that the rules should include but
 19 not be limited to procedures for determining:
 20 (1) which parcels of land and which improvements are
 21 environmentally unsound or nonproductive as a result of
 22 mining, smelting, refining, or other human activity;
 23 (2) the value of such property, recognizing the state's
 24 policy that polluted property should be valued as if it were
 25 environmentally sound and productive; and

There are no changes in this bill,
 and will not be reprinted. Please
 refer to yellow copy for complete
 text.



SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 9, 1991

Page 2 of 2
April 9, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 801 (third reading copy -- blue), respectfully report that House Bill No. 801 be amended and as so amended be concurred in:

1. Title, lines 8 and 9.
Strike: "ALL" on line 8 through "OF" on line 9
2. Title, line 10.
Following: "PROPERTY"
Insert: "ASSESSED"
3. Page 2, line 20.
Following: "because of"
Insert: "unaddressed"
4. Page 2, line 24.
Following: "property"
Insert: "that is not or has not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions or that is not subject to a federal or state order requiring response action"
5. Page 6, line 14.
Strike: "have been"
6. Page 6, line 15.
Following: "(I)"
Insert: "have been"
7. Page 6, line 17.
Strike: "AND"
8. Page 6, line 18.
Following: "(II)"
Insert: "are"
9. Page 6, line 20.
Following: "AMENDED"
Insert: "; and
(iii) are not or have not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions or are not subject to a federal or state order requiring response action"

10. Page 13, lines 7 through 9.
Strike: "all" on line 7 through "due" on line 9
Insert: "the class twenty-one property assessed"

Signed: 
Mike Halligan, Chairman

LB 4/9/91
Amd. Coord.
SB 4/10 11:30
Sec. of Senate

1 HOUSE BILL NO. 801
 2 INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED
 5 PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC
 6 POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR
 7 A METHOD OF APPRAISING POLLUTED PROPERTY; PROVIDING THAT
 8 UNPAID TAXES ON CLASS TWENTY-ONE PROPERTY ARE A LIEN ON ALL
 9 OTHER-PROPERTY-OWNED-BY-THE-OWNER-OF THE CLASS TWENTY-ONE
 10 PROPERTY ASSESSED; AMENDING SECTIONS 15-1-101, 15-7-103, AND
 11 15-8-111, AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY
 12 DATE."
 13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
 16 [section 3] requires the department of revenue to adopt
 17 rules for the appraisal of polluted property. At a minimum,
 18 the legislature intends that the rules should include but
 19 not be limited to procedures for determining:

20 (1) which parcels of land and which improvements are
 21 environmentally unsound or nonproductive as a result of
 22 mining, smelting, refining, or other human activity;

23 (2) the value of such property, recognizing the state's
 24 policy that polluted property should be valued as if it were
 25 environmentally sound and productive; and



1 (3) the point at which property previously meeting the
 2 definition of polluted property is no longer polluted.

3 In determining a general and uniform procedure for
 4 determining which property is polluted, the department of
 5 revenue may use the expertise of or definitions used by a
 6 department or agency of the state of Montana or the United
 7 States.

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Class twenty-one property --
 11 description -- taxable percentage. (1) Class twenty-one
 12 property includes all property defined as "polluted
 13 property" under 15-1-101.

14 (2) Class twenty-one property is taxed at ~~twice-the~~
 15 ~~taxable-percentage-rate-applicable-to--class--four--property~~
 16 ~~under--15-6-134+2)+a}~~ 8% OF MARKET VALUE.

17 NEW SECTION. Section 2. Policy. It is the policy of
 18 the state of Montana that an incentive should be provided to
 19 the owners of polluted property that has been rendered
 20 environmentally unsound or nonproductive because of
 21 UNADDRESSED pollution from mining, smelting, refining, or
 22 other human activity to make the property environmentally
 23 sound and productive. To carry out this policy, the state of
 24 Montana finds that polluted property THAT IS NOT OR HAS NOT
 25 BEEN THE SUBJECT OF GOOD FAITH DISCUSSIONS WITH AN

1 APPROPRIATE FEDERAL OR STATE GOVERNMENTAL AUTHORITY OR
 2 AGENCY PERTAINING TO RESPONSE ACTIONS OR THAT IS NOT SUBJECT
 3 TO A FEDERAL OR STATE ORDER REQUIRING RESPONSE ACTION should
 4 be valued as if it were productive and environmentally sound
 5 but taxed at a rate higher than other property. The
 6 incentive provided through this policy is for the owners of
 7 polluted property to return the land or improvements to an
 8 environmentally sound and productive state, thereby causing
 9 the polluted property to be taxed at a lower rate.

10 NEW SECTION. Section 3. valuation -- minimum --
 11 rulemaking. (1) The value of polluted property may not be
 12 less than the average value of all other commercial and
 13 industrial property in the county AND MAY NOT BE LESS THAN
 14 \$100 PER ACRE.

15 (a) For polluted land, value may be determined by
 16 square footage, acreage, or similar measure.

17 (b) For polluted improvements, value must be determined
 18 by replacement cost without adjustment for depreciation of
 19 any kind.

20 (2) The department of revenue shall promulgate rules to
 21 ensure that polluted property is appraised and assessed as
 22 if it were environmentally sound and productive.

23 **Section 4.** Section 15-1-101, MCA, is amended to read:

24 "15-1-101. Definitions. (1) Except as otherwise
 25 specifically provided, when terms mentioned in this section

1 are used in connection with taxation, they are defined in
 2 the following manner:

3 (a) The term "agricultural" refers to the raising of
 4 livestock, poultry, bees, and other species of domestic
 5 animals and wildlife in domestication or a captive
 6 environment, and the raising of field crops, fruit, and
 7 other animal and vegetable matter for food or fiber.

8 (b) The term "assessed value" means the value of
 9 property as defined in 15-8-111.

10 (c) The term "average wholesale value" means the value
 11 to a dealer prior to reconditioning and profit margin shown
 12 in national appraisal guides and manuals or the valuation
 13 schedules of the department of revenue.

14 (d) (i) The term "commercial", when used to describe
 15 property, means any property used or owned by a business, a
 16 trade, or a nonprofit corporation as defined in 35-2-102 or
 17 used for the production of income, except that property
 18 described in subsection (ii).

19 (ii) The following types of property are not commercial:

20 (A) agricultural lands;

21 (B) timberlands;

22 (C) single-family residences and ancillary improvements
 23 and improvements necessary to the function of a bona fide
 24 farm, ranch, or stock operation;

25 (D) mobile homes used exclusively as a residence except

1 when held by a distributor or dealer of trailers or mobile
2 homes as his stock in trade;

3 (E) all property described in 15-6-135; and

4 (F) all property described in 15-6-136.

5 (e) The term "comparable property" means property that
6 has similar use, function, and utility; that is influenced
7 by the same set of economic trends and physical,
8 governmental, and social factors; and that has the potential
9 of a similar highest and best use.

10 (f) The term "credit" means solvent debts, secured or
11 unsecured, owing to a person.

12 (g) The term "improvements" includes all buildings,
13 structures, fences, and improvements situated upon, erected
14 upon, or affixed to land. When the department of revenue or
15 its agent determines that the permanency of location of a
16 mobile home or housetrailer has been established, the mobile
17 home or housetrailer is presumed to be an improvement to
18 real property. A mobile home or housetrailer may be
19 determined to be permanently located only when it is
20 attached to a foundation which cannot feasibly be relocated
21 and only when the wheels are removed.

22 (h) The term "leasehold improvements" means
23 improvements to mobile homes and mobile homes located on
24 land owned by another person. This property is assessed
25 under the appropriate classification and the taxes are due

1 and payable in two payments as provided in 15-24-202.
2 Delinquent taxes on such leasehold improvements are a lien
3 only on such leasehold improvements.

4 (i) The term "livestock" means cattle, sheep, swine,
5 goats, horses, mules, and asses.

6 (j) The term "mobile home" means forms of housing known
7 as "trailers", "housetrainers", or "trailer coaches"
8 exceeding 8 feet in width or 45 feet in length, designed to
9 be moved from one place to another by an independent power
10 connected to them, or any "trailer", "housetrailer", or
11 "trailer coach" up to 8 feet in width or 45 feet in length
12 used as a principal residence.

13 (k) The term "personal property" includes everything
14 that is the subject of ownership but that is not included
15 within the meaning of the terms "real estate" and
16 "improvements".

17 (l) The term "polluted property" means land or
18 improvements that have-been:

19 (I) HAVE BEEN rendered environmentally unsound or
20 nonproductive because of the effects of mining, smelting,
21 refining, or other human activity; AND

22 (II) ARE LISTED AS A NATIONAL PRIORITY LIST SITE AS
23 DEFINED IN THE FEDERAL COMPREHENSIVE, ENVIRONMENTAL
24 RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, AS
25 AMENDED; AND

1 (III) ARE NOT OR HAVE NOT BEEN THE SUBJECT OF GOOD FAITH
 2 DISCUSSIONS WITH AN APPROPRIATE FEDERAL OR STATE
 3 GOVERNMENTAL AUTHORITY OR AGENCY PERTAINING TO RESPONSE
 4 ACTIONS OR ARE NOT SUBJECT TO A FEDERAL OR STATE ORDER
 5 REQUIRING RESPONSE ACTION.

6 {t}(m) The term "poultry" includes all chickens,
 7 turkeys, geese, ducks, and other birds raised in
 8 domestication to produce food or feathers.

9 {m}(n) The term "property" includes moneys, credits,
 10 bonds, stocks, franchises, and all other matters and things,
 11 real, personal, and mixed, capable of private ownership.
 12 This definition must not be construed to authorize the
 13 taxation of the stocks of any company or corporation when
 14 the property of such company or corporation represented by
 15 the stocks is within the state and has been taxed.

16 {n}(o) The term "real estate" includes:

17 (i) the possession of, claim to, ownership of, or right
 18 to the possession of land;

19 (ii) all mines, minerals, and quarries in and under the
 20 land subject to the provisions of 15-23-501 and Title 15,
 21 chapter 23, part 8; all timber belonging to individuals or
 22 corporations growing or being on the lands of the United
 23 States; and all rights and privileges appertaining thereto.

24 {e}(p) "Research and development firm" means an entity
 25 incorporated under the laws of this state or a foreign

1 corporation authorized to do business in this state whose
 2 principal purpose is to engage in theoretical analysis,
 3 exploration, and experimentation and the extension of
 4 investigative findings and theories of a scientific and
 5 technical nature into practical application for experimental
 6 and demonstration purposes, including the experimental
 7 production and testing of models, devices, equipment,
 8 materials, and processes.

9 {p}(q) The term "taxable value" means the percentage of
 10 market or assessed value as provided for in Title 15,
 11 chapter 6, part 1.

12 {q}(r) The term "weighted mean assessment ratio" means
 13 the total of the assessed values divided by the total of the
 14 selling prices of all area sales in the stratum.

15 (2) The phrase "municipal corporation" or
 16 "municipality" or "taxing unit" shall be deemed to include a
 17 county, city, incorporated town, township, school district,
 18 irrigation district, drainage district, or any person,
 19 persons, or organized body authorized by law to establish
 20 tax levies for the purpose of raising public revenue.

21 (3) The term "state board" or "board" when used without
 22 other qualification shall mean the state tax appeal board."

23 **Section 5.** Section 15-7-103, MCA, is amended to read:

24 "15-7-103. Classification and appraisal -- general and
 25 uniform methods. (1) It is the duty of the department of

1 revenue to implement the provisions of 15-7-101 through
2 15-7-103 by providing:

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

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

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

11 (d) for a general and uniform method of appraising
12 timberlands;

13 (e) for a general and uniform method of appraising
14 polluted property.

15 (2) All lands shall be classified according to their
16 use or uses and graded within each class according to soil
17 and productive capacity. In such classification work, use
18 shall be made of soil surveys and maps and all other
19 pertinent available information.

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

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

4 (5) In any periodic revaluation of taxable property
5 completed under the provisions of 15-7-111 after January 1,
6 1986, all property classified in 15-6-134 must be appraised
7 on its market value in the same year. The department shall
8 publish a rule specifying the year used in the appraisal.

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

16 **Section 6.** Section 15-8-111, MCA, is amended to read:

17 "15-8-111. **Assessment -- market value standard --**
18 **exceptions.** (1) All taxable property must be assessed at
19 100% of its market value except as otherwise provided.

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

24 (b) If the department uses construction cost as one
25 approximation of market value, the department shall fully

1 consider reduction in value caused by depreciation, whether
 2 through physical depreciation, functional obsolescence, or
 3 economic obsolescence.

4 (c) Except as provided in subsection (3), the market
 5 value of all motor trucks; agricultural tools, implements,
 6 and machinery; and vehicles of all kinds, including but not
 7 limited to boats and all watercraft, is the average
 8 wholesale value shown in national appraisal guides and
 9 manuals or the value of the vehicle before reconditioning
 10 and profit margin. The department of revenue shall prepare
 11 valuation schedules showing the average wholesale value when
 12 no national appraisal guide exists.

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

17 (a) the wholesale value for agricultural implements and
 18 machinery is the loan value as shown in the Official Guide,
 19 Tractor and Farm Equipment, published by the national farm
 20 and power equipment dealers association, St. Louis,
 21 Missouri;

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

1 (c) as otherwise authorized in Title 15 and Title 61.

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

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

7 (6) The assessed value of properties in 15-6-131
 8 through 15-6-133 is as follows:

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

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

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

20 (d) Properties in 15-6-143, under class thirteen, are
 21 assessed at 100% of the combined appraised value of the
 22 standing timber and grazing productivity of the land when
 23 valued as timberland.

24 (7) Properties in [section 1] are assessed at 100% of
 25 market value as provided in [section 3].

1 {7}{8} Land and the improvements thereon are separately
2 assessed when any of the following conditions occur:

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

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

6 (c) the land is outside an incorporated city or town.
7 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
8 681, L. 1985.)"

9 **SECTION 7. SECTION 15-16-403, MCA, IS AMENDED TO READ:**

10 "15-16-403. Lien on real property and improvements. (1)
11 Every tax due upon real property is a lien against the
12 property assessed, and every tax due upon improvements upon
13 real estate assessed to other than the owner of the real
14 estate is a lien upon the land and improvements, which
15 several liens attach as of January 1 in each year.

16 (2) ~~A tax due on class twenty-one property is a lien~~
17 ~~against all-real-and-personal-property-owned-by-the-owner-of~~
18 ~~the-class-twenty-one-property-as-well-as--a--lien--upon--the~~
19 ~~property--upon--which-the-taxes-are-due~~ **THE CLASS TWENTY-ONE**
20 **PROPERTY ASSESSED."**

21 **NEW SECTION. Section 8. Codification instruction.** (1)
22 [Section 1] is intended to be codified as an integral part
23 of Title 15, chapter 6, part 1, and the provisions of Title
24 15, chapter 6, part 1, apply to {section 1}.

25 (2) {Sections 2 and 3} are intended to be codified as

1 an integral part of Title 15, chapter 7, and the provisions
2 of Title 15, chapter 7, apply to {sections 2 and 3}.

3 **NEW SECTION. Section 9. Applicability.** [This act]
4 applies to taxable years beginning after December 31, 1992.

-End-

4/24/91
8:15 AM
801

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 801 and recommend that House Bill 801 (reference copy -- salmon) be amended as follows:

1. Title, line 9.
Following: "~~of~~"
Insert: "ALL OTHER PROPERTY OWNED BY THE OWNER OF"
2. Title, line 10.
Strike: "ASSESSED"
3. Page 2, line 21.
Strike: "UNADDRESSED"
4. Page 2, line 24 through page 3, line 2.
Strike: "THAT" on page 2, line 24 through "OR" on page 3, line 2
5. Page 6, line 21.
Following: "activity"
Insert: "and includes postreclamation property that remains environmentally unsound or is subject to environmental land use controls"
6. Page 7, lines 1 through 4.
Strike: "ARE" on line 1 through "OR" on line 4
Following: "STATE" on line 4
Insert: "court or administrative"
Following: "ORDER"
Insert: "or consent decree"
7. Page 13, lines 19 and 20.
Strike: "THE CLASS TWENTY-ONE PROPERTY ASSESSED"
Insert: "all real and personal property owned by the owner of the class twenty-one property as well as a lien upon the property upon which the taxes are due"

And this Free Conference Committee report be adopted.

For the House:

For the Senate:

Bob Raney
Rep. Raney, Chair

Don Bianchi
Sen. Bianchi, Chair

Pat McCarthy
Rep. McCarthy

John Lynch
Sen. Lynch

Sam Hoffmann
Rep. Hoffmann

Tom Beck
Sen. Beck

ADOPT

REJECT

HOUSE BILL NO. 801

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR A METHOD OF APPRAISING POLLUTED PROPERTY; PROVIDING THAT UNPAID TAXES ON CLASS TWENTY-ONE PROPERTY ARE A LIEN ON ALL OTHER PROPERTY OWNED BY THE OWNER OF THE CLASS TWENTY-ONE PROPERTY ASSESSED; AMENDING SECTIONS 15-1-101, 15-7-103, AND 15-8-111, AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] requires the department of revenue to adopt rules for the appraisal of polluted property. At a minimum, the legislature intends that the rules should include but not be limited to procedures for determining:

(1) which parcels of land and which improvements are environmentally unsound or nonproductive as a result of mining, smelting, refining, or other human activity;

(2) the value of such property, recognizing the state's policy that polluted property should be valued as if it were

environmentally sound and productive; and

(3) the point at which property previously meeting the definition of polluted property is no longer polluted.

In determining a general and uniform procedure for determining which property is polluted, the department of revenue may use the expertise of or definitions used by a department or agency of the state of Montana or the United States.

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

NEW SECTION. Section 1. Class twenty-one property -- description -- taxable percentage. (1) Class twenty-one property includes all property defined as "polluted property" under 15-1-101.

(2) Class twenty-one property is taxed at twice-the taxable-percentage-rate-applicable-to--class--four--property under-15-6-134(2)(a) 8% OF MARKET VALUE.

NEW SECTION. Section 2. Policy. It is the policy of the state of Montana that an incentive should be provided to the owners of polluted property that has been rendered environmentally unsound or nonproductive because of UNADDRESSED pollution from mining, smelting, refining, or other human activity to make the property environmentally sound and productive. To carry out this policy, the state of Montana finds that polluted property THAT-IS-NOT-OR-HAS--NOT



1 ~~BEEN---THE---SUBJECT---OF---GOOD---FAITH---DISCUSSIONS---WITH---AN~~
 2 ~~APPROPRIATE---FEDERAL---OR---STATE---GOVERNMENTAL---AUTHORITY---OR~~
 3 ~~AGENCY---PERTAINING---TO---RESPONSE---ACTIONS---OR~~ THAT IS NOT SUBJECT
 4 TO A FEDERAL OR STATE ORDER REQUIRING RESPONSE ACTION should
 5 be valued as if it were productive and environmentally sound
 6 but taxed at a rate higher than other property. The
 7 incentive provided through this policy is for the owners of
 8 polluted property to return the land or improvements to an
 9 environmentally sound and productive state, thereby causing
 10 the polluted property to be taxed at a lower rate.

11 NEW SECTION. Section 3. Valuation -- minimum --
 12 rulemaking. (1) The value of polluted property may not be
 13 less than the average value of all other commercial and
 14 industrial property in the county AND MAY NOT BE LESS THAN
 15 \$100 PER ACRE.

16 (a) For polluted land, value may be determined by
 17 square footage, acreage, or similar measure.

18 (b) For polluted improvements, value must be determined
 19 by replacement cost without adjustment for depreciation of
 20 any kind.

21 (2) The department of revenue shall promulgate rules to
 22 ensure that polluted property is appraised and assessed as
 23 if it were environmentally sound and productive.

24 **Section 4.** Section 15-1-101, MCA, is amended to read:

25 "15-1-101. Definitions. (1) Except as otherwise

1 specifically provided, when terms mentioned in this section
 2 are used in connection with taxation, they are defined in
 3 the following manner:

4 (a) The term "agricultural" refers to the raising of
 5 livestock, poultry, bees, and other species of domestic
 6 animals and wildlife in domestication or a captive
 7 environment, and the raising of field crops, fruit, and
 8 other animal and vegetable matter for food or fiber.

9 (b) The term "assessed value" means the value of
 10 property as defined in 15-8-111.

11 (c) The term "average wholesale value" means the value
 12 to a dealer prior to reconditioning and profit margin shown
 13 in national appraisal guides and manuals or the valuation
 14 schedules of the department of revenue.

15 (d) (i) The term "commercial", when used to describe
 16 property, means any property used or owned by a business, a
 17 trade, or a nonprofit corporation as defined in 35-2-102 or
 18 used for the production of income, except that property
 19 described in subsection (ii).

20 (ii) The following types of property are not commercial:

- 21 (A) agricultural lands;
- 22 (B) timberlands;
- 23 (C) single-family residences and ancillary improvements
 24 and improvements necessary to the function of a bona fide
 25 farm, ranch, or stock operation;

1 (D) mobile homes used exclusively as a residence except
 2 when held by a distributor or dealer of trailers or mobile
 3 homes as his stock in trade;

4 (E) all property described in 15-6-135; and

5 (F) all property described in 15-6-136.

6 (e) The term "comparable property" means property that
 7 has similar use, function, and utility; that is influenced
 8 by the same set of economic trends and physical,
 9 governmental, and social factors; and that has the potential
 10 of a similar highest and best use.

11 (f) The term "credit" means solvent debts, secured or
 12 unsecured, owing to a person.

13 (g) The term "improvements" includes all buildings,
 14 structures, fences, and improvements situated upon, erected
 15 upon, or affixed to land. When the department of revenue or
 16 its agent determines that the permanency of location of a
 17 mobile home or housetrailer has been established, the mobile
 18 home or housetrailer is presumed to be an improvement to
 19 real property. A mobile home or housetrailer may be
 20 determined to be permanently located only when it is
 21 attached to a foundation which cannot feasibly be relocated
 22 and only when the wheels are removed.

23 (h) The term "leasehold improvements" means
 24 improvements to mobile homes and mobile homes located on
 25 land owned by another person. This property is assessed

1 under the appropriate classification and the taxes are due
 2 and payable in two payments as provided in 15-24-202.
 3 Delinquent taxes on such leasehold improvements are a lien
 4 only on such leasehold improvements.

5 (i) The term "livestock" means cattle, sheep, swine,
 6 goats, horses, mules, and asses.

7 (j) The term "mobile home" means forms of housing known
 8 as "trailers", "housetrailer", or "trailer coaches"
 9 exceeding 8 feet in width or 45 feet in length, designed to
 10 be moved from one place to another by an independent power
 11 connected to them, or any "trailer", "housetrailer", or
 12 "trailer coach" up to 8 feet in width or 45 feet in length
 13 used as a principal residence.

14 (k) The term "personal property" includes everything
 15 that is the subject of ownership but that is not included
 16 within the meaning of the terms "real estate" and
 17 "improvements".

18 (l) The term "polluted property" means land or
 19 improvements that have-been:

20 (I) HAVE BEEN rendered environmentally unsound or
 21 nonproductive because of the effects of mining, smelting,
 22 refining, or other human activity AND INCLUDES
 23 POSTRECLAMATION PROPERTY THAT REMAINS ENVIRONMENTALLY
 24 UNSOOUND OR IS SUBJECT TO ENVIRONMENTAL LAND USE CONTROLS;
 25 AND

1 (II) ARE LISTED AS A NATIONAL PRIORITY LIST SITE AS
 2 DEFINED IN THE FEDERAL COMPREHENSIVE, ENVIRONMENTAL
 3 RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, AS
 4 AMENDED; AND

5 (III) ARE NOT OR HAVE NOT BEEN THE SUBJECT OF GOOD FAITH
 6 DISCUSSIONS WITH AN APPROPRIATE FEDERAL OR STATE
 7 GOVERNMENTAL AUTHORITY OR AGENCY PERTAINING TO RESPONSE
 8 ACTIONS OR ARE NOT SUBJECT TO A FEDERAL OR STATE COURT OR
 9 ADMINISTRATIVE ORDER OR CONSENT DECREE REQUIRING RESPONSE
 10 ACTION.

11 (m) The term "poultry" includes all chickens,
 12 turkeys, geese, ducks, and other birds raised in
 13 domestication to produce food or feathers.

14 (n) The term "property" includes moneys, credits,
 15 bonds, stocks, franchises, and all other matters and things,
 16 real, personal, and mixed, capable of private ownership.
 17 This definition must not be construed to authorize the
 18 taxation of the stocks of any company or corporation when
 19 the property of such company or corporation represented by
 20 the stocks is within the state and has been taxed.

21 (o) The term "real estate" includes:

22 (i) the possession of, claim to, ownership of, or right
 23 to the possession of land;

24 (ii) all mines, minerals, and quarries in and under the
 25 land subject to the provisions of 15-23-501 and Title 15,

1 chapter 23, part 8; all timber belonging to individuals or
 2 corporations growing or being on the lands of the United
 3 States; and all rights and privileges appertaining thereto.

4 (p) "Research and development firm" means an entity
 5 incorporated under the laws of this state or a foreign
 6 corporation authorized to do business in this state whose
 7 principal purpose is to engage in theoretical analysis,
 8 exploration, and experimentation and the extension of
 9 investigative findings and theories of a scientific and
 10 technical nature into practical application for experimental
 11 and demonstration purposes, including the experimental
 12 production and testing of models, devices, equipment,
 13 materials, and processes.

14 (q) The term "taxable value" means the percentage of
 15 market or assessed value as provided for in Title 15,
 16 chapter 6, part 1.

17 (r) The term "weighted mean assessment ratio" means
 18 the total of the assessed values divided by the total of the
 19 selling prices of all area sales in the stratum.

20 (2) The phrase "municipal corporation" or
 21 "municipality" or "taxing unit" shall be deemed to include a
 22 county, city, incorporated town, township, school district,
 23 irrigation district, drainage district, or any person,
 24 persons, or organized body authorized by law to establish
 25 tax levies for the purpose of raising public revenue.

1 (3) The term "state board" or "board" when used without
2 other qualification shall mean the state tax appeal board."

3 **Section 5.** Section 15-7-103, MCA, is amended to read:

4 "15-7-103. Classification and appraisal -- general and
5 uniform methods. (1) It is the duty of the department of
6 revenue to implement the provisions of 15-7-101 through
7 15-7-103 by providing:

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

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

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

16 (d) for a general and uniform method of appraising
17 timberlands;

18 (e) for a general and uniform method of appraising
19 polluted property.

20 (2) All lands shall be classified according to their
21 use or uses and graded within each class according to soil
22 and productive capacity. In such classification work, use
23 shall be made of soil surveys and maps and all other
24 pertinent available information.

25 (3) All lands must be classified by parcels or

1 subdivisions not exceeding 1 section each, by the sections,
2 fractional sections, or lots of all tracts of land that have
3 been sectionized by the United States government, or by
4 metes and bounds, whichever yields a true description of the
5 land.

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

9 (5) In any periodic revaluation of taxable property
10 completed under the provisions of 15-7-111 after January 1,
11 1986, all property classified in 15-6-134 must be appraised
12 on its market value in the same year. The department shall
13 publish a rule specifying the year used in the appraisal.

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

21 **Section 6.** Section 15-8-111, MCA, is amended to read:

22 "15-8-111. Assessment -- market value standard --
23 exceptions. (1) All taxable property must be assessed at
24 100% of its market value except as otherwise provided.

25 (2) (a) Market value is the value at which property

1 would change hands between a willing buyer and a willing
2 seller, neither being under any compulsion to buy or to sell
3 and both having reasonable knowledge of relevant facts.

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

9 (c) Except as provided in subsection (3), the market
10 value of all motor trucks; agricultural tools, implements,
11 and machinery; and vehicles of all kinds, including but not
12 limited to boats and all watercraft, is the average
13 wholesale value shown in national appraisal guides and
14 manuals or the value of the vehicle before reconditioning
15 and profit margin. The department of revenue shall prepare
16 valuation schedules showing the average wholesale value when
17 no national appraisal guide exists.

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

22 (a) the wholesale value for agricultural implements and
23 machinery is the loan value as shown in the Official Guide,
24 Tractor and Farm Equipment, published by the national farm
25 and power equipment dealers association, St. Louis,

1 Missouri;

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

6 (c) as otherwise authorized in Title 15 and Title 61.

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

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

12 (6) The assessed value of properties in 15-6-131
13 through 15-6-133 is as follows:

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

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

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

25 (d) Properties in 15-6-143, under class thirteen, are

1 assessed at 100% of the combined appraised value of the
2 standing timber and grazing productivity of the land when
3 valued as timberland.

4 (7) Properties in [section 1] are assessed at 100% of
5 market value as provided in [section 3].

6 ~~(7)~~(8) Land and the improvements thereon are separately
7 assessed when any of the following conditions occur:

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

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

11 (c) the land is outside an incorporated city or town.
12 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
13 681, L. 1985.)"

14 **SECTION 7. SECTION 15-16-403, MCA, IS AMENDED TO READ:**

15 "15-16-403. Lien on real property and improvements. (1)
16 Every tax due upon real property is a lien against the
17 property assessed, and every tax due upon improvements upon
18 real estate assessed to other than the owner of the real
19 estate is a lien upon the land and improvements, which
20 several liens attach as of January 1 in each year.

21 (2) A tax due on class twenty-one property is a lien
22 against all-real-and-personal-property-owned-by-the-owner-of
23 the--class--twenty-one--property--as-well-as-a-lien-upon-the
24 property-upon-which-the-taxes-are-due THE--CLASS--TWENTY--ONE
25 PROPERTY--ASSESSED ALL REAL AND PERSONAL PROPERTY OWNED BY

1 THE OWNER OF THE CLASS TWENTY-ONE PROPERTY AS WELL AS A LIEN
2 UPON THE PROPERTY UPON WHICH THE TAXES ARE DUE."

3 **NEW SECTION. Section 8. Codification instruction.** (1)
4 [Section 1] is intended to be codified as an integral part
5 of Title 15, chapter 6, part 1, and the provisions of Title
6 15, chapter 6, part 1, apply to [section 1].

7 (2) [Sections 2 and 3] are intended to be codified as
8 an integral part of Title 15, chapter 7, and the provisions
9 of Title 15, chapter 7, apply to [sections 2 and 3].

10 **NEW SECTION. Section 9. Applicability.** [This act]
11 applies to taxable years beginning after December 31, 1992.

-End-