

HOUSE BILL 910

Introduced by Madison, et al.

2/16	Introduced
2/16	Referred to Taxation
2/18	First Reading
2/18	Fiscal Note Requested
3/05	Fiscal Note Received
3/07	Fiscal Note Printed
3/12	Hearing
3/27	Tabled in Committee

1 House BILL NO. 910
 2 INTRODUCED BY Melissa Pate
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TAXING MINERALS IN
 5 PLACE WITH A VALUE IN EXCESS OF \$1 MILLION AS CLASS FOUR
 6 PROPERTY; DEFINING MINERALS IN PLACE; PROVIDING THAT
 7 MINERALS IN PLACE OWNED BY A GOVERNMENTAL ENTITY ARE TAXABLE
 8 IF LEASED BY A NONGOVERNMENTAL ENTITY; AMENDING SECTIONS
 9 15-1-101, 15-6-134, 15-6-201, AND 15-6-208, MCA; AND
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
 11 DATE."
 12

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

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

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

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

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

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

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

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

11 (A) agricultural lands;

12 (B) timberlands;

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

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

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

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

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

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

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

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

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

22 (j) The term "minerals in place" means valuable mineral
23 deposits, placer, rock, liquid, or gas in place, containing
24 or bearing gold, copper, lead, coal, oil, gas, or other
25 valuable minerals in commercially producible quantities.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **Section 2.** Section 15-6-134, MCA, is amended to read:

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

8 (a) all land except that specifically included in
9 another class;

10 (b) all improvements except those specifically included
11 in another class;

12 (c) the first \$80,000 or less of the market value of
13 any improvement on real property and appurtenant land not
14 exceeding 5 acres owned or under contract for deed and
15 actually occupied for at least 10 months a year as the
16 primary residential dwelling of any person whose total
17 income from all sources including otherwise tax-exempt
18 income of all types is not more than \$10,000 for a single
19 person or \$12,000 for a married couple, as adjusted
20 according to subsection (2)(b)(ii);

21 (d) all golf courses, including land and improvements
22 actually and necessarily used for that purpose, that consist
23 of at least 9 holes and not less than 3,000 lineal yards;

24 (e) minerals in place having an estimated value
25 determined by the department of \$1 million or more.

1 (2) Class four property is taxed as follows:

2 (a) Except as provided in 15-24-1402 or 15-24-1501,
3 property described in subsections (1)(a) and (1)(b) is taxed
4 at 3.86% of its market value.

5 (b) (i) Property described in subsection (1)(c) is
6 taxed at 3.86% of its market value multiplied by a
7 percentage figure based on income and determined from the
8 following table:

Income		Income		Percentage
Single Person	Married Couple	Single Person	Married Couple	Multiplier
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200			0%
1,001 - 2,000	1,201 - 2,400			10%
2,001 - 3,000	2,401 - 3,600			20%
3,001 - 4,000	3,601 - 4,800			30%
4,001 - 5,000	4,801 - 6,000			40%
5,001 - 6,000	6,001 - 7,200			50%
6,001 - 7,000	7,201 - 8,400			60%
7,001 - 8,000	8,401 - 9,600			70%
8,001 - 9,000	9,601 - 10,800			80%
9,001 - 10,000	10,801 - 12,000			90%

21 (ii) The income levels contained in the table in
22 subsection (2)(b)(i) must be adjusted for inflation annually
23 by the department of revenue. The adjustment to the income
24 levels is determined by:

25 (A) multiplying the appropriate dollar amount from the

1 table in subsection (2)(b)(i) by the ratio of the PCE for
2 the second quarter of the year prior to the year of
3 application to the PCE for the second quarter of 1986; and

4 (B) rounding the product thus obtained to the nearest
5 whole dollar amount.

6 (iii) "PCE" means the implicit price deflator for
7 personal consumption expenditures as published quarterly in
8 the Survey of Current Business by the bureau of economic
9 analysis of the U.S. department of commerce.

10 (c) Property described in subsection (1)(d) is taxed at
11 one-half the taxable percentage rate established in
12 subsection (2)(a).

13 (3) After July 1, 1986, no adjustment may be made by
14 the department to the taxable percentage rate for class four
15 property until a revaluation has been made as provided in
16 15-7-111.

17 (4) Within the meaning of comparable property as
18 defined in 15-1-101, property assessed as commercial
19 property is comparable only to other property assessed as
20 commercial property, and property assessed as other than
21 commercial property is comparable only to other property
22 assessed as other than commercial property."

23 **Section 3.** Section 15-6-201, MCA, is amended to read:

24 "15-6-201. Exempt categories. (1) The Except as
25 provided in 15-6-208(5), the following categories of

1 property are exempt from taxation:

2 (a) the property of:

3 (i) the United States, the state, counties, cities,
4 towns, school districts, except, if congress passes
5 legislation that allows the state to tax property owned by
6 an agency created by congress to transmit or distribute
7 electrical energy, the property constructed, owned, or
8 operated by a public agency created by the congress to
9 transmit or distribute electric energy produced at privately
10 owned generating facilities (not including rural electric
11 cooperatives);

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

14 (iii) municipal corporations; and

15 (iv) public libraries;

16 (b) buildings, with land they occupy and furnishings
17 therein, owned by a church and used for actual religious
18 worship or for residences of the clergy, together with
19 adjacent land reasonably necessary for convenient use of the
20 buildings;

21 (c) property used exclusively for agricultural and
22 horticultural societies, for educational purposes, and for
23 nonprofit health care facilities, as defined in 50-5-101,
24 licensed by the department of health and environmental
25 sciences and organized under Title 35, chapter 2 or 3. A

1 health care facility that is not licensed by the department
2 of health and environmental sciences and organized under
3 Title 35, chapter 2 or 3, is not exempt.

4 (d) property that meets the following conditions:

5 (i) is owned and held by any association or corporation
6 organized under Title 35, chapter 2, 3, 20, or 21;

7 (ii) is devoted exclusively to use in connection with a
8 cemetery or cemeteries for which a permanent care and
9 improvement fund has been established as provided for in
10 Title 35, chapter 20, part 3; and

11 (iii) is not maintained and operated for private or
12 corporate profit;

13 (e) institutions of purely public charity;

14 (f) evidence of debt secured by mortgages of record
15 upon real or personal property in the state of Montana;

16 (g) public art galleries and public observatories not
17 used or held for private or corporate profit;

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

23 (i) a truck canopy cover or topper weighing less than
24 300 pounds and having no accommodations attached. This
25 property is also exempt from taxation under 61-3-504(2) and

1 61-3-537.

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

4 (k) motor homes, travel trailers, and campers;

5 (l) all watercraft;

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

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

16 (o) property owned and used by a corporation or
17 association organized and operated exclusively for the care
18 of the developmentally disabled, mentally ill, or
19 vocationally handicapped as defined in 18-5-101, which is
20 not operated for gain or profit;

21 (p) all farm buildings with a market value of less than
22 \$500 and all agricultural implements and machinery with a
23 market value of less than \$100;

24 (q) property owned by a nonprofit corporation organized
25 to provide facilities primarily for training and practice

1 for or competition in international sports and athletic
2 events and not held or used for private or corporate gain or
3 profit. For purposes of this subsection (q), "nonprofit
4 corporation" means an organization exempt from taxation
5 under section 501(c) of the Internal Revenue Code and
6 incorporated and admitted under the Montana Nonprofit
7 Corporation Act.

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

11 (i) construct, repair, and maintain improvements to
12 real property; or

13 (ii) repair and maintain machinery, equipment,
14 appliances, or other personal property;

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

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

18 (2) (a) The term "institutions of purely public
19 charity" includes organizations owning and operating
20 facilities for the care of the retired or aged or
21 chronically ill, which are not operated for gain or profit.

22 (b) The terms "public art galleries" and "public
23 observatories" include only those art galleries and
24 observatories, whether of public or private ownership, that
25 are open to the public without charge at all reasonable

1 hours and are used for the purpose of education only.

2 (3) The following portions of the appraised value of a
3 capital investment made after January 1, 1979, in a
4 recognized nonfossil form of energy generation, as defined
5 in 15-32-102, are exempt from taxation for a period of 10
6 years following installation of the property:

7 (a) \$20,000 in the case of a single-family residential
8 dwelling;

9 (b) \$100,000 in the case of a multifamily residential
10 dwelling or a nonresidential structure."

11 **Section 4.** Section 15-6-208, MCA, is amended to read:

12 "15-6-208. Mineral exemptions. (1) One-half of the
13 contract sales price of coal sold by a coal producer who
14 extracts less than 50,000 tons of coal in a calendar year is
15 exempt from taxation.

16 (2) Metal mines producing less than 20,000 tons of ore
17 in a taxable year shall be exempt from property taxation on
18 one-half of the merchantable value.

19 (3) New production, as defined in 15-23-601, is exempt
20 from taxation for the first 12 months of production as
21 provided in 15-23-612.

22 (4) Minerals in place having an estimated value
23 determined by the department of less than \$1 million are
24 exempt from taxation.

25 (5) Minerals in place are not exempt from taxation

1 under 15-6-201(1) if owned by an entity included in
2 15-6-201(1)(a) but under lease to an entity or person not
3 included in 15-6-201(1)(a)."

4 **NEW SECTION. Section 5.** Effective date. [This act] is
5 effective on passage and approval and applies to taxable
6 years beginning after December 31, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0910, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act taxing minerals in place with a value in excess of \$1 million as class four property; defining minerals in place; providing that minerals in place owned by a governmental entity are taxable if leased by a nongovernmental entity; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. The entire state would need to be surveyed to determine where mineral deposits exist.


FISCAL IMPACT:


The proposal would increase state and local property tax revenues beginning in FY93. However, the department does not have adequate information to provide an estimate of the extent of revenue increase due to the proposal.

The proposal would require significant administrative costs for surveying and estimating mineral deposits and for handling appeals. The proposal would require expertise the department does not currently require. Implementing the proposal would require the expertise of geologists and engineers to determine the economic value of mineral deposits.

TECHNICAL NOTES:

The bill does not provide any guidance on valuing minerals in place. For example, it is not known if cost of extraction should be included in valuing the minerals.


ROD SUNDSTED, BUDGET DIRECTOR 3-5-91
Office of Budget and Program Planning DATE


JAMES MADISON, PRIMARY SPONSOR 3/7/91
Fiscal Note for HB0910, as introduced DATE

HB 910