MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 25, 1985

The eleventh meeting of the Taxation Committee was called to order in room 312-1 of the state capitol at 8:07 a.m. by Chairman Devlin.

ROLL CALL: All members were present with the exception of Representative Willaims and Representative Cohen, who were excused. Also present were Dave Bohyer, Researcher for the Legislative Council, and Alice Omang, secretary.

CONSIDERATION OF HOUSE BILL 168: Representative Donaldson, District 43, said that in 1963, ag lands were determined to be assessed on their productive value and this bill would require the Department of Revenue to use a method of valuation based on capitalization of net income for valuing ag lands after January 1, 1986.

PROPONENTS: Gregg Groepper, Administrator of the Property Assessment Division of the Department of Revenue, said that they would like to support this bill, but they would suggest that stronger language be put in, i.e, directing Montana state university to accumulate this data so that they will have a data source.

Dennis Burr, representing the Montana Taxpayers' Association, indicated that they support this bill for the reasons previously stated.

Mons Teigen, representing the Montana Stockgrowers' Association and the Montana Woolgrowers' Association, stated that they were in full support of this bill and offered Exhibit 1.

Pat Underwood, representing the Montana Farm Bureau, gave a statement in support of this bill. See Exhibit 2.

There were no further proponents.

OPPONENTS: There were none.

QUESTIONS ON HOUSE BILL 168: Representative Koehnke asked how the university would get this data.

Representative Donaldson replied that there are a variety of sources and that several years ago, a similar type of situation occurred and they were able to get excellent information.

Representative Patterson asked if this would not encourage the agricultural community to get all those government subsidies that are handed out.

Representative Donaldson responded that he did not think so any more than what it takes to encourage people to use fertilizer.

Representative Gilbert said that if he was talking about basing it on net income, how is that going to affect taxation.

Representative Donaldson replied that based on productivity, there is a lot of ag land that is worthless and that is a fact of life; but there is no question when they are talking about economic times in agriculture over the last few years, if you use productivity and net return, you are going to have some pretty low figures.

Representative Gilbert asked what he thought about using gross income.

Representative Donaldson replied that they looked at gross income, but gross income on a sugar beet crop is many times over what it is on a barley crop; and he did not think they could use that.

There were numerous questions on timber land.

Representative Switzer asked if the government payments were not factored into this and often this is the only way to survive, yet they were not included in the formula.

Representative Donaldson answered that they did not use them and ag land would be valued at about 49% of what they were.

Representative Raney asked if this would not just encourage people to just not produce at all.

Representative Donaldson responded that he did not think so as the taxes on livestock, equipment and improvements are far more significant than the agriculture property.

Representative Ream asked about the timber values.

Mr. Groepper answered that their judgment is that regardless of what they do with agricultural land unless you put it on the same footage as timber land, the constitution requires that you put it in different classes and then the legislature can set whatever tax rate they want to set.

Representative Sands asked if there were other states that have this kind of taxing.

Mr. Groepper replied that some states use capitalized net income and a couple use gross rent capitalized and generally across the board, most states have some sort of different treatment for agricultural land.

Mr. Bohyer explained that all the states that border Montana use some income driven valuation method.

Representative Raney asked if there were not some people who would lose under this.

Mr. Groepper responded that every time you finish a reappraisal cycle and you bring those values current, there are going to be losers and winners and any system based on market value is going to have change.

Representative Sands asked if they were not really changing the amount of tax that is going to be applied to agriculture land and would it change the method of classification.

Mr. Groepper answered that this bill does not change the method of classification and it does not speak to tax.

There were no further questions.

Representative Donaldson said that he hoped the committee would give this bill their due consideration.

The hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 105: Representative Marks, District 75, stated that this bill is one that is attempting to get the process of tax appeals into some reasonable perimeters by requiring the state tax appeal board to decide appeals within 90 days. He distributed to the committee Exhibit 3.

PROPONENTS: Gordon Morris, representing the Montana Association of Counties, stated that they would endorse this bill as amended and that there are severe implications as far as budgets are concerned.

Dennis Burr, representing the Montana Taxpayers' Association, made a statement in support of this bill and he indicated that if this bill passes, at least the county attorney would have the power to try and sort out the Kaiser mess.

Bob Longmire, Superintendent of the Boulder Public Schools, informed the committee of the problems he has had over many years with protested taxes.

Chip Erdman, representing the Montana School Boards, gave a statement in support of this bill. See Exhibit 4.

Tom Beck, President of the Montana Association of Counties, and also a commissioner from Powell County, told the committee of the problems of the Haines pipe line in western Montana.

John Connor, the county attorney in Jefferson County, said that they supported this bill for most of the reasons already stated and 27% of their valuation right now is in protest.

Tom Marvin, County Commissioner in Mineral County, said that they have a class-action suit that has been setting there for about 7 years and they support this bill.

There were no further proponents.

OPPONENTS: Bob Raundal, Chairman of the Tax Appeal Board, informed the committee of some of the problems they encourter in getting their decisions out and in holding hearings.

Michael Garrity, representing the Department of Revenue, gave a statement in opposition to this bill. See Exhibit 5.

There were no further opponents.

QUESTIONS ON HOUSE BILL 105: Representative Harrington asked if there was something that they can do in the legislature to expedite these decisions.

Mr. Raundal responded that they have to have more appropriations to take care of the 34% issue and when they get through with this issue, if something else does not surface, they will be back on schedule.

Representative Sands asked if Mr. Raundal had an opinion as to whether the 180 days would be constitutional.

Mr. Raundal responded that he does not at this time.

Chairman Devlin asked Mr. Raundal if he has requested more staff through the years when these 34% cases came up.

Mr. Raundal replied that they did not as they thought that the supreme court would probably rule in the same way the district court did.

Chairman Devlin asked if he has made any requests for additional law clerks now to clean up the 2200 cases concerning the 34% cases.

Mr. Raundal answered that they made requests for additional funding and would like some law clerks, but he is not sure if they get 34% cases settled, that they need a permanent one unless something else comes up.

There were no further questions.

Representative Marks stated that he would ask that the committee consider this a serious bill and if the 180 day period is not sufficient, he would ask that they consider a time that would be sufficient.

The hearing on this bill was closed.

The meeting recessed at 10:27 a.m. and was reconvened at 10:34 a.m.

CONSIDERATION OF HOUSE BILL 151: Representative Keyser, District 74, handed Exhibit 6 to the committe, which were proposed amendments to this bill. He stated that this bill would raise the maximum tax liability from $100 to $800 on a special fuels tax return. He explained the proposed amendments.

PROPONENTS: There were none.

OPPONENTS: Norris Nichols, representing the Department of Revenue, stated that the amendments make this bill much more palatable to administrate.

There were no further opponents.

QUESTIONS ON HOUSE BILL 151: Representative Gilbert asked if they would still be able to file quarterly.

Mr. Nichols replied that that was right, but the way the bill is presently amended if you weren't in agriculture, you would have to file quarterly.

Representative Switzer asked if Representative Keyser also took out the $800.00.

Representative Keyser responded that it was still there.

There were no further questions.

Representative Keyser stated that this is a reasonable piece of legislation and urged the committee to pass it.

The hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 24:

Representative Ellison explained to the committee that they could not do what they wanted to do within the confines of the bill as submitted so they are going to request a new bill and he moved that this bill be TABLED.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL 41: Representative Switzer moved that this bill DO PASS. Representative Keenan made a substitute motion that this bill be TABLED. She explained that in the realty transfer act not only does it provide information for the department, but it also provides protection for industry and they do not want the department to randomly assess them without having some criteria.

Mr. Bohyer informed the committee that this is a non-debatable motion and Representative Keenan withdrew her motion.

Representative Ellison moved that the bill be amended as was suggested. The motion carried with Representative Abrams, Representative Ream, Representative Sands, Represenative Schye and Representative Zabrocki voting no.

Representative Switzer moved that this bill DO PASS AS AMENDED. Representative Keenan made a substitute motion that this bill BE TABLED. The motion carried with a vote of 13 ayes and 6 nos. See Roll Call Vote.

DISPOSITION OF HOUSE BILL 177: Representative Ream distributed some proposed amendments to this bill. See Exhibit 8. He made a motion to amend this bill as per these amendments.

There was some discussion on the amendments and the motion carried with Representative Zabrocki voting no.

Representative Ream moved that this bill DO PASS AS AMENDED. The motion carried with Representative Zabrocki and Representative Koehnke voting no.

ADJOUNRMENT: There being no further business, the meeting was adjourned at 11:07 a.m.

GERRY DEVLIN, Chairman

Alice Omang, Secretary

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

TO: Members of the Taxation Committee

From: Chairman Gerry Devlin

Date: January 26, 1985

I have selected the following members to serve on the subcommittee considering HJR 9:

Representative Harp, Chairman
Representative Sands
Representative Switzer
Representative Williams
Representative Harrington
Representative Schye

Gerry Devlin, Chairman
Taxation Committee
House of Representatives
49th Legislative Session

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 25, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		
	X		

STANDING COMMITTEE REPORT

January 23, 1985

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 177

First reading copy (white)
color

AN ACT TO MAKE THE INTEREST RATE ON PROPERTY TAXES PAID BY A REDEMPTIONER THE SAME AS THE RATE ON DELINQUENT PROPERTY TAXES GENERALLY:, ETC.

Respectfully report as follows: That HOUSE Bill No. 177
be amended as follows:

1. Title, line 6.
Following: "GENERALLY;"
Insert: "REQUIRING THAT ANY INTEREST IN EXCESS OF 8 PERCENT COLLECTED BY THE COUNTY TREASURER ON A REDEMPTION FROM A TAX SALE BE DEPOSITED IN THE COUNTY GENERAL FUND;"

2. Page 1, line 12.
Following: "sales."
Insert: "(1)"

3. Page 2, line 7.
Following: line 6
Insert: "(2) All interest in excess of 8% paid by the redemptioner shall be promptly deposited by the county treasurer in the county general fund."

And as amended,
DO PASS

STATE PUB. CO.
Helena, Mont.

Gerry Devlin, Chairman.

COMMITTEE SECRETARY

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HOUSE BILL 168 DATE January 25, 1985

SPONSOR Representative Donaldson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MONT. FARM BUREAU PAT UNDERWOOD	MANHATTAN, MT 5289 PEARL DR. 59741	✓	
Mons Teigen Mont Stockgrowers + Woolgrowers	Helena	✓	
Dennis Burr	Mont TAX	✓	
[illegible]	Revenue	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HOUSE BILL 105 DATE January 25, 1985

SPONSOR REPRESENTATIVE MARKS

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Michael G. Garrity	Dept. of Revenue Helena, MT		X
Robert S Raundal	State Tax Appeal Board		X
Dennis Burr	MONTAX	✓	
Robert L. Laumeyer	Boulder MT	✓	
John Connor	Jefferson County Attorney	✓	
Chip ERDMANN	MT School Bd Assoc	✓	
Gordon Morris	MACo.	✓	
Tom Marvin	MINERAL COUNTY	✓	
Tom Beck	Powell Co.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HOUSE BILL 151 DATE January 25, 1985

SPONSOR REPRESENTATIVE KEYSER

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Vonnie Nichols Dept. Rev.	Helena		X?

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE January 25, 1985 BILL NO. HB 41 TIME

NAME	AYE	NAY
DEVLIN, GERRY, Chrm.		✓
WILLIAMS, MEL, V.Chrm.		
ABRAMS, HUGH	✓	
ASAY, TOM	✓	
COHEN, BEN	✓	
ELLISON, ORVAL		✓
GILBERT, BOB	✓	
HANSON, MARIAN		✓
HARRINGTON, DAN	✓	
HARP, JOHN	✓	
IVERSON, DENNIS		✓
KEENAN, NANCY	✓	
KOEHNKE, FRANCIS	✓	
PATTERSON, JOHN		✓
RANEY, BOB	✓	
REAM, BOB	✓	
SANDS, JACK	✓	
SCHYE, TED	✓	
SWITZER, DEAN		✓
ZABROCKI, CARL	✓	
	13 -	6

Alice Omang

Secretary Alice Omang

Chairman Gerry Devlin

Motion: TO TABLE, AS AMENDED

(

CS-31

Exhibit 1
HB 168
1/25/85

WITNESS STATEMENT

Name Mons Teigen Committee On Taxation

Address Helena Date 1/25/85

Representing Mont. Stockgrowers + Woolgrowers Support X

Bill No. HB 168 Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. See attachment re net income on agricultural property.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

1

2

REPORT ITSC12B
10/57/01 01/26/84

OFFICE OF BUDGET & PROGRAM PLANNING
MONTANA INCOME TAX ANALYSIS
ALL RETURNS

CALENDAR
YEAR 1981

	1,100	2,200	4,400	6,600	8,800	11,000	15,300	21,900	38,400	99,999	TOTALS
NET BUSINESS INCOME - LN 9											
	14,986	4,345	7,549	6,212	5,191	4,350	5,809	4,150	2,277	858	55,727
	-25,919,809	8,715,561	20,606,072	21,586,191	21,492,093	17,188,770	29,939,623	34,847,390	60,027,940	34,566,461	223,050,292
GAIN/LOSS FROM PROPERTY - LN10											
	18,357	4,884	8,971	7,439	6,514	5,528	8,131	6,673	4,801	1,830	73,128
	184,406,802	8,720,148	16,308,021	11,722,290	11,023,557	11,055,882	17,132,387	29,988,327	41,094,098	38,009,990	369,461,502
NET RENT/ROYALTY INCOME - LN11											
	16,904	4,708	8,641	7,533	6,548	5,749	8,543	6,731	4,387	1,537	71,281
	27,166,062	7,766,965	12,872,121	10,932,034	11,175,456	9,952,982	19,479,653	22,749,786	31,656,999	27,361,213	181,113,271
PARTNERSHIP INCOME - LN 12											
	5,232	985	1,805	1,632	1,465	1,332	2,033	1,938	1,768	1,004	19,194
	-141,641,155	5,767,074	5,105,440	4,085,718	5,351,846	8,418,865	5,571,588	5,342,319	473,472	9,776,914	-91,747,919
NET FARM INCOME - LN 13											
	10,082	1,916	3,455	2,998	2,573	2,199	3,012	2,409	1,721	594	30,959
	-149,718,092	-2,394,549	-3,353,665	-1,396,234	-2,041,062	1,615,174	4,713,622	8,820,617	11,656,134	10,998,949	-121,099,106
OTHER INCOME - LN 14											
	24,804	8,196	14,013	12,227	12,203	11,526	16,787	11,614	5,178	1,605	118,153
	6,998,036	18,843,024	34,045,888	26,485,654	26,038,115	23,337,978	30,526,885	25,203,093	18,838,954	25,576,427	235,894,054
TOTALS OF LN 6 THRU LN 14											
	91,470	37,823	60,035	49,095	43,779	36,368	47,796	30,067	11,779	2,835	411,047
	607,414,691	274,826,543	540,369,715	565,815,852	633,135,774	648,960,666	1,073,310,648	919,741,586	589,974,633	309,520,433	6,163,070,541
ADJUSTMENTS FROM INCOME - LN16											
	9,612	4,514	8,864	8,465	8,266	7,731	10,670	7,617	3,837	1,063	70,639
	33,863,605	8,068,754	15,485,317	14,302,772	13,967,618	13,262,251	19,446,245	16,330,708	11,271,760	4,876,907	150,875,937

OFFICE OF BUDGET & PROGRAM PLANNING
MONTANA INCOME TAX ANALYSIS
ALL RETURNS

	1,200	2,300	4,700	7,000	9,400	11,700	16,400	23,500	41,100	99,999	TOTALS
NET BUSINESS INCOME - LN 9											
	17,608	4,757	8,270	6,201	5,314	4,096	5,760	3,582	2,003	747	58,338
	-58,658,016	11,602,224	24,111,782	21,086,702	17,310,473	16,973,121	24,722,365	26,538,809	39,123,350	25,293,833	148,104,643
GAIN/LOSS FROM PROPERTY - LN10											
	20,099	4,811	9,458	7,526	6,558	5,161	8,015	6,147	4,177	1,792	73,744
	194,226,770	34,374,615	34,749,086	16,929,876	17,621,346	9,759,396	18,125,333	18,823,094	21,663,850	48,959,806	415,233,172
NET RENT/ROYALTY INCOME - LN11											
	18,887	4,732	9,332	7,580	6,814	5,460	8,672	6,207	3,985	1,571	73,240
	2,181,630	6,905,245	14,714,583	11,896,442	10,830,464	9,556,021	19,012,142	20,879,293	33,105,842	39,924,382	169,006,044
PARTNERSHIP INCOME - LN 12											
	6,356	1,117	2,289	1,898	1,707	1,443	2,326	2,125	1,930	1,094	22,285
	-122,514,859	-283,691	8,900,415	11,682,185	4,602,817	5,023,553	14,079,757	12,940,911	13,423,686	24,458,094	-27,687,132
NET FARM INCOME - LN 13											
	10,859	1,810	3,689	3,008	2,368	1,887	2,964	2,155	1,432	587	30,759
	-187,106,798	-3,281,183	-3,915,205	7,665,645	1,802,023	852,537	4,566,822	7,959,801	13,313,907	6,158,799	-151,983,652
OTHER INCOME - LN 14											
	28,547	8,465	16,059	13,988	14,392	12,868	19,538	12,343	5,136	1,551	132,887
	-34,804,225	21,915,845	48,697,817	40,908,222	31,799,197	30,557,882	34,680,683	27,725,213	26,239,013	12,791,652	240,511,299
TOTALS OF LN 6 THRU LN 14											
	97,613	36,302	62,086	47,919	43,173	34,217	46,677	27,155	10,404	2,689	408,235
	600,982,989	293,146,129	608,338,943	616,859,701	687,091,055	664,918,457	1,138,026,653	900,007,407	540,496,173	348,782,374	6,398,649,881
ADJUSTMENTS FROM INCOME - LN16											
	17,228	8,336	17,432	16,036	16,055	13,598	19,291	12,193	5,685	1,534	127,388
	35,907,850	10,693,629	23,418,754	22,901,406	24,772,198	22,463,248	36,163,319	27,682,054	18,711,530	7,616,805	230,330,793

Exhibit 2
HB 168

MONTANA
FARM BUREAU
FEDERATION

502 South 19th
Bozeman, Montana 59715
Phone (406) 587-3153

1/25/85

TESTIMONY BY: Patrick R. Underwood

BILL # HB 168 DATE 25 Jan 85

SUPPORT X OPPOSE

The Montana Farm Bureau supports HB 168. We have been involved in this process since April of 1982 and through the interum committee's work between 1983 and now.

This is an intrical part of legislation that the general agricultural communnity had worked on and agreed upon. The Montana Farm Bureau urges you to give HB 168 a "Do Pass".

Patrick R. Underwood, Exec. Vice President
SIGNED

FARMERS AND RANCHERS UNITED

STATE OF MONTANA
STATE TAX APPEAL BOARD
1209 8TH AVENUE
CAPITOL STATION
HELENA, MONTANA 59620

TELEPHONE:
AREA CODE 406
444-2720

Exhibit 3
HB 105
1/25

ROBERT S. RAUNDAL, CHAIRMAN
HELEN M. PETERSON, Member
DALE D. DEAN, Member

Marks

January 17, 1985

Representative Robert L. Marks
Montana House of Representatives
State Capitol Building
Helena, Montana 59620

Dear Bob:

In response to your letter of January 16, 1985, it is difficult to answer and be specific but I will try, and these figures are approximate.

1. We have 2204 of the 34% cases, of which about 122 have been heard. About 30 1984 appeals could be heard. We have 49 direct appeals, most of them waiting for discovery that is in progress. There are numerous appeals that are being held in abeyance for one reason or another, such as the 110 drilling rig appeals that we have been asked to hold because the Department of Revenue is negotiating with the companies. These are 35 oil company appeals involving jurisdiction on Indian land that we have been asked to hold pending court proceedings.

2. Last week we finished hearing the Anaconda concentrator plant in Butte which set a record -- seven full days of testimony involving 92 million dollars in property valuation. We have had 16 days of hearings on the 34% cases since July 1984 and no decision has been rendered. Enclosed is a copy of a hearing schedule for one week (not typical). Six decisions on these appeals were written in the hotel room at night and mailed the following week.

3. Because of the Supreme Court remand on the manual disparity cases (34%), we are further behind than we have ever been since the board was formed.

If you wanted to discuss this one on one, I would be glad to meet with you.

Sincerely,

Bob

Robert S. Raundal
Chairman

RSR:jam

KAISER CEMENT

-1-79---Kaiser Cement first appealed to the Jefferson County Tax Appeal Board.
ly 19, 1979-Jefferson County Board heard the appeal.
July 26, 1979-County Board adjusted the values determined by the DOR.
aiser Cement and the DOR both filed appeals to this Board on this County Board decision
g. 20, 1979-This Board receives first appeal from Kaiser appealing DOR assessment
of personal property and buildings (DOR valued building at $4,244,000, Kaiser wanted $2,801,040; DOR valued personal property at $7,100,000, Kaiser wanted $6,250,000)
ctober 29, 1979--hearing held before STAB in Helena.
eb. 12, 1980--post-~~findings and~~ hearing briefs filed by both parties ~~until~~ this date.
This appeal was held in abeyance by STAB pending a Supreme Court decision on the
annual disparity cases. (1976)
une 5, 1981--attorney Ward Shanahan filed a complaint with the district court in Jefferson County.
June 26, 1981--then County Attorney Cecil Woodgate filed a Motion to Dismiss.
ly 1, 1981--DOR Tax Counsel Michael Garrity also filed a Motion to Dismiss.
July 2, 1981--Motions to Dismiss overruled.
July 6, 1981--Mike Garrity filed a brief in support of Defendent's Motion to Dismiss.
ly 9, 1981--Ward Shanahan filed an amended complaint
ly 21, 1981--Mike Garrity filed a Motion to Dismiss Amended Complaint and Brief in Support Thereof.
ly 22, 1981--Cecil Woodgate filed another Motion to Dismiss.
ly 28, 1981--Both Motions to Dismiss were overruled.
August 6, 1981--Cecil Woodgate filed Defendent's Answers to Amended Complaint.
Sept. 15, 1981--Summons were issued.
l 12, 1981--A trial was set in the matter for May 3, 1982.
il 22, 1981--Larry Schuster, tax counsel for the DOR, filed a motion for continuance of hearing.
pril 26, 1981--Order issued from district court setting the matter for hearing on June 7, 1982.
May 27, 1982--Ward Shanahan filed a motion for continuance of hearing.
une 4, 1982--Order was issued from district court granting postponement of hearing.
ept. 29, 1982--Interrogatories to Plaintiff and Request for Production of Documents filed by Larry Schuster.
Nothing further has been filed in district court after this date.

n early 1983, Ward Shanahan called this office and requested a copy of the transcript of the hearing before STAB on Oct. 29, 1979. In the next months, several phone calls were made to the court reporter in Billings who had taken the hearing. She had recently oved to Billings and kept stalling the preparation of the transcript.
ay 10, 1983--Bob Raundāl called PaulaGresens who said she would prepare a transcript if she could borrow STAB's tape recording of the hearing. The tape was sent to her that ay.
ly 13, 1983--STAB received transcript of the hearing held on Oct. 29, 1979.
STAB didn't know but what this was for pending court proceedings. (the transcript)
ometime after the first part of 1984, Jefferson County began putting pressure on STAB o issue a decision on Kaiser because of the amount of tax dollars involved.
At that time, STAB separate the personal property (machinery & equipment) & real property portions of the appeal and issued a decision on the M & E portion of the appeal on arch 26, 1984.
av 23, 1984, Ward Shanahan appealed this decision to district court in Jefferson County.
Ju 11, 1984, entire record of proceedings before STAB sent to the Clerk of the Fifth udicial District Court in Boulder.
une 28, 1984, a hearing was held before STAB on the real property portion of the appeal.
A briefing schedule was set up with simultaneous briefs due Aug. 24, 1984 and reply briefs due Sept. 11, 1984.

Larry Schuster filed a motion to dismiss Shanahan's complaint before district court.
July 2, 1984, Shanahan filed a brief in response to the DOR's motion to dismiss.
July 18, 1984, Schuster filed a reply brief to Shanahan's brief in district court.
Oct. 31, 1984-this board issued an order re-setting the due dates for briefs: simultaneous briefs due Nov. 14, 1984 and reply briefs due Dec. 10, 1984.
Nov. 13, 1984--Larry Schuster filed the DOR's post-hearing brief.
Nov. 14, 1984--Shanahan filed appellant's post-hearing brief.
Dec. 10, 1984--Both Schuster and Shanahan filed reply briefs.

SUBSEQUENT APPEALS

May 28, 1981-Kaiser Cement appealed to the Jefferson CTAB.
July 9, 1981-Hearing before Jefferson CTAB--County board adjusted value on July 10, 1981.
July 27, 1981, Kaiser filed an appeal before this Board for tax year 1981.
Aug. 11, 1981, a letter was sent to A.E. Steffe, director of corporate taxes for Kaiser Cement informing him that STAB had accepted his appeal.
Oct. 30, 1981--a letter was sent by STAB informaing Kaiser Cement that they must pay the protested portion of their tax under protest to avoid becoming delinquent.
Aug. 19, 1981--DOR filed cross-appeal from a decision of the Jefferson CTAB.
Sept. 9, 1981, both the DOR and Kaiser Cement were informed by letter from STAB that the Board had received and accepted their appeals.

July 21, 1982-Kaiser Cement filed an appeal with the Jefferson CTAB.
Aug. 30, 1982-Hearing before Jefferson CTAB.
Sept. 7, 1982-Jefferson CTAB made no adjustment to DOR values--Chairman Bessler disqualified himself and other two board members could not agree. No decision was made on the real property portion and the personal property value was not changed.
Sept. 29, 1982-Kaiser Cement appealed to this Board.
Oct. 12, 1982-STAB acknowledges receipt and acceptance of this appeal.

June 1, 1983-Kaiser Cement filed an appeal with the Jefferson CTAB.
July 19 and Oct. 21, 1983-Hearings before the Jefferson CTAB.
Jan. 25, 1984--Chairman Bessler disqualified himself and other two members reach no decision and therefore make no adjustments to DOR values.
Jan. 27, 1984-Kaiser Cement appeals to this Board.
Feb. 22, 1984-STAB acknowledges receipt and acceptance of this appeal.

No appeal filed for 1984.

JEFFERSON COUNTY
PROTESTED TAXES

Total Amount of Protested Taxes - $1,279,188.81

Kaiser Cement

1979	-	107,845.28
1980	-	134,864.52
1981	-	160,377.39
1982	-	167,899.55
1983	-	162,829.58
1984 1st 1/2		83,786.88
Total		817,603.20

Montana Power Company

91,838.62

Pacific Power and Light Co.

2,064.48

Portland G. E. Company

91,878.49

Puget Sound Power and Light Co.

142,874.23

Washington Water

51,875.38

Miscellaneous Individual Non-corporate Protested Taxes - $1,963.95

Note: The total figure also includes accumualted interest of $79,090.46 for 1979 through 1984.

Exhibit 4
HB 105
2/25/85

WITNESS STATEMENT

Name Chip Erdmann

Address Helena

Representing MT School Bd Assoc

Bill No. 105 (Marks)

Committee On Taxation

Date 1/25/85

Support X

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill would require STAB to make a decision within 90 days. Now there is no limit on the time it takes them to make a decision

2. Some of their decisions take several years - this is devastating to local governments - school districts - who must depend on local tax revenue to survive.

3. School Districts estimate the tax proceeds they will receive before they set their budgets. If a company or individual makes a tax protest, substantial

4. funds can be tied up while STAB makes its decision.

This will make STAB render decisions in a timely manner and will allow local governments to operate better.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

Exhibit 5
HB 105
1/25/85

WITNESS STATEMENT

Name Michael G. Garrity — Committee On TAXATION

Address Mitchell Bldg. Helena, MT — Date 1-25-85

Representing Dept. of Revenue — Support

Bill No. H.B. 105 — Oppose

Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The Dept. of Revenue believes a 90 day time limitation will adversely effect STAB decision making for the following reasons:

1. STAB'S cases are complex, eg. property tax, corporate license tax, and not readily susceptible to easy resolution;

2. STAB is currently inadequately funded for its existing caseload;

3. STAB's "circuit" throughout Montana prevents a 90 day time limitation;

4. STAB's current caseload is heavy without any statutory time limitation for decision making; and

5. STAB's current time for rendering decisions is more expeditious than most District Courts.

NOTE: HB 105's "pay retention and forfeiture" provisions may violate the Impairment of contract clauses in the 1972 Montana Constitution, Art III, Sect 31 and the United States Constitution Art I, Sect. 10.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

5

Exhibit 6
1/25/84
Keyser

PROPOSED AMENDMENTS

House Bill No. 151
Introduced Copy

1. Title, line 7.
Following: "RETURN;"
Insert: "EXTENDING THE WAIVER TO USER'S USING THE SPECIAL FUEL IN AN AGRICULTURAL USE; CLARIFYING THAT A PERSON GRANTED THE WAIVER MUST POST A BOND AND SPECIFYING THE AMOUNT OF THE BOND; AND"
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 15-70-304 AND"

2. Page 1, line 10.
Following: the enacting clause
Insert: "Section 1. Section 15-70-304, MCA, is amended to read:
"Section 15-70-304. Bonding, release of surety, and additional bond. (1) Except as herein provided, no special fuel dealer's license or special fuel user's permit shall be issued to any person or continued in force unless such person has furnished bond, as defined in 15-70-301 and in such form as the department may require, to secure its compliance with this part and the payment of any and all taxes, interest, and penalties due and to become due hereunder. Upon application, the department may waive the bond requirement of any resident special fuel user who establishes to the reasonable satisfaction of the department that the tax as herein provided is not delinquent or that interest or penalties are not accrued under the provisions of this part. Upon application, the department shall waive the bond requirement of any public contractor licensed under Title 15, chapter 50, who has posted a performance bond conditioned on payment of all lawful taxes with the contracting entity.

(2) The total amount of the bond or bonds required of any special fuel dealer shall be equivalent to twice his estimated monthly tax payments, the total amount of the bond or bonds required of any special fuel user described in 15-70-325(2)(a)(ii) shall be equal to his estimated annual tax payments, and the total amount of the bond or bonds required of any other special fuel user shall be equivalent to twice his estimated quarterly tax payments as hereinafter provided, determined in such manner as the department may deem proper; provided, however, that the total amount of the bond or bonds shall never be less than: (a) $5,000 for any special fuel user awarded a contract in accordance with 15-70-321 ~~or less than~~;

(b) $1,000 for any special fuel user described in 15-70-325(2)(a)(ii);

(c) $500 for any other special fuel user ~~and not less than~~ ; or

(d) $1,000 for a special fuel dealer."

Renumber: subsequent sections

3. Page 1, line 17.
Following: "(2)"
Insert: "(a)"

4. Page 1, line 19.
Following: "that"
Insert: ": (i)"

5. Page 1, line 20.
Following: "less"
Insert: "; or

(ii) such user's use of special fuel is an agricultural use as defined in 15-70-201.

(b) Each special fuel user, regardless of return filing period, must post a bond as provided in 15-70-304(2)."

Exhibit #7
HB 41
1/25/85

AMENDMENTS TO HOUSE BILL NO. 41
HB 41, Introduced copy

1. Title, line 4.
Following: "TO"
Strike: "REPEAL"
Insert: "DELETE CERTAIN SALES INFORMATION FROM THE REPORTING REQUIREMENTS OF"

2. Title, line 5.
Following: "REPEALING"
Strike: "SECTIONS 15-7-301 THROUGH 15-7-311"
Insert: "SECTION 15-7-309"

3. Page 1, lines 9 and 10.
Following: "Repealer."
Strike: "Sections 15-7-301 through 15-7-311, MCA, are"
Insert: "Section 15-7-309, MCA, is"

4. Page 1, following line 10.
Add: "NEW SECTION. Section 2. Extension of authority. Any existing authority of the Department of Revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act for the specific purpose of repealing rule provisions that require reporting of sales data other than sales price or actual consideration."

Exhibit 7
HB 41
1/25/85

AMENDMENTS TO HOUSE BILL NO. 41
HB 41, Introduced copy

1. Title, line 4.
Following: "TO"
Strike: "REPEAL"
Insert: "DELETE CERTAIN SALES INFORMATION FROM THE REPORTING REQUIREMENTS OF"

2. Title, line 5.
Following: "REPEALING"
Strike: "SECTIONS 15-7-301 THROUGH 15-7-311"
Insert: "SECTION 15-7-309"

3. Page 1, lines 9 and 10.
Following: "Repealer."
Strike: "Sections 15-7-301 through 15-7-311, MCA, are"
Insert: "Section 15-7-309, MCA, is"

4. Page 1, following line 10.
Add: "NEW SECTION. Section 2. Extension of authority. Any existing authority of the Department of Revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act for the specific purpose of repealing rule provisions that require reporting of sales data other than sales price or actual consideration."

Exhibit 1
HB41
1/25/85

<u>AMENDMENTS TO HOUSE BILL NO. 41</u>
HB 41, Introduced copy

1. Title, line 4.
   Following: "TO"
   Strike: "REPEAL"
   Insert: "DELETE CERTAIN SALES INFORMATION FROM THE REPORTING REQUIREMENTS OF"

2. Title, line 5.
   Following: "REPEALING"
   Strike: "SECTIONS 15-7-301 THROUGH 15-7-311"
   Insert: "SECTION 15-7-309"

3. Page 1, lines 9 and 10.
   Following: "Repealer."
   Strike: "Sections 15-7-301 through 15-7-311, MCA, are"
   Insert: "Section 15-7-309, MCA, is"

4. Page 1, following line 10.
   Add: "<u>NEW SECTION</u>. Section 2. Extension of authority. Any existing authority of the Department of Revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act for the specific purpose of repealing rule provisions that require reporting of sales data other than sales price or actual consideration."

Exhibit 8
HB 177
1/25/85
Ream

PROPOSED AMENDMENTS

House Bill No. 177
Introduced Copy

1. Title, line 6.
Following: "GENERALLY;"
Insert: "REQUIRING THAT ANY INTEREST IN EXCESS OF 8 PERCENT COLLECTED BY THE COUNTY TREASURER ON A REDEMPTION FROM A TAX SALE BE DEPOSITED IN THE COUNTY GENERAL FUND;"

2. Page 1, line 12.
Following: "sales."
Insert: "(1)"

3. Page 2, line 7.
Following: line 6
Insert: "(2) All interest in excess of 8% paid by the redemptioner shall be promptly deposited by the county treasurer in the county general fund."

STATE OF MONTANA

REQUEST NO. FNN113-85

F I S C A L   N O T E

Form BD-15

In compliance with a written request received January 16, 19 85, there is hereby submitted a Fiscal Note for H.B. 151 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to raise from $100 to $800 the maximum tax liability triggering mandatory waiver of the requirement for filing a quarterly special fuels tax return.

ASSUMPTIONS

The proposal will increase the clerical duties of the Motor Fuels Division prior to the January 31 deadline prescribed for annual reports and returns, but it will decrease the clerical duties of the Division prior to the deadlines for quarterly tax returns. However, when the annual payment deadline occurs, additional clerical and administrative work will occur because of an anticipated increase in delinquent tax payments. Some decrease in revenue will occur because of increased delinquencies. There will also be reduced revenues because of reduced interest earnings by the state.

FISCAL IMPACT:

The Department of Revenue is unable to estimate the net Fiscal impact of this proposal although it is felt it will be minor.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 22, 1985

HB 151

STATE OF MONTANA

REQUEST NO. FNN104-85

F I S C A L   N O T E

Form BD-15

In compliance with a written request received January 15, 19 85 , there is hereby submitted a Fiscal Note for House Bill 168 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require the Department of Revenue to use a method of valuation based on capitalization of net income for valuing agricultural lands after January 1, 1986, and providing an effective date and a delayed applicability date.

FISCAL IMPACT:

The proposal will not affect agricultural land values for the current reappraisal cycle and therefore will have no fiscal impact until 1991. The bill offers the Department clear guidance on the appropriate methodology for updating agricultural land values for the next reappraisal cycle. The bill would mandate the use of the income approach for valuing timber land unless agricultural and timber lands are put in separate classes. This may have a large impact on timber values.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 21, 1985

FN2:E/2

HB 168

HOUSE BILL NO. 105

INTRODUCED BY MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STATE TAX APPEAL BOARD TO DECIDE APPEALS WITHIN 90 DAYS; PROVIDING A PENALTY OF WITHHOLDING OF PAYMENT FOR SERVICES UNTIL APPEALS ARE DECIDED; AMENDING SECTIONS 15-2-301 AND 15-2-302, MCA."

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

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) Any person or the department of revenue in behalf of the state or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state board by filing with the county tax appeal board a notice of appeal and a duplicate thereof with the state board within 20 calendar days after the receipt of the decision of the county board, which notice shall specify the action complained of and the reasons assigned for such complaint. The county tax appeal boards shall mail their decisions to the property assessment division of the department. Receipt, for purposes of appeal, by the department is when the county tax appeal board decision is received by the property assessment division of the department. The state board shall set such appeal for

hearing either in its office in the capital or such county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest and shall give to the appellant and to the county board at least 15 calendar days' notice of the time and place of such hearing.

(2) At the time of giving such notice, the state board may require the county board to certify to it the minutes of the proceedings resulting in such action and all testimony taken in connection therewith. The state board may, in its discretion, determine the appeal on such record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, the state board may refer any such appeal to one of its members and the person so designated shall have and exercise all the powers of the board in conducting such hearings and shall, as soon as possible thereafter, report the proceedings, together with a transcript of the testimony received, to the board and the state board shall determine such appeal on the record so made.

<u>(3) The state board shall issue a ruling in any appeal brought before it within 90 days after its final hearing on the appeal or within 90 days after receipt of the county tax appeal board decision if no hearing is held. If any appeal</u>

INTRODUCED BILL

HB 105

remains pending and undecided beyond the prescribed time period, the chairman of the board shall submit an affidavit on or before the 90th day to the state auditor, setting forth the appeal name and number. The state auditor may not issue a warrant for payment of services to the board members until all such overdue decisions are issued and that fact is certified to the state auditor by affidavit of the chairman of the board. There may be no interest earned on withheld payments.

~~(3)~~(4) On all hearings at county seats throughout the state, the state board or the member designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received and the cost thereof may be paid out of the general appropriation for the board.

~~(4)~~(5) In connection with any appeal under this section, the state board shall not be bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. The decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or modified by judicial review. To the extent this section is in conflict with the Montana Administrative Procedure Act, this section shall supersede that act. The state tax appeal board may not amend or repeal any administrative rule of the department.

The state tax appeal board must give an administrative rule full effect unless the board finds any such rule arbitrary, capricious, or otherwise unlawful."

Section 2. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board any action of the department of revenue involving:

(a) property centrally assessed under chapter 23 of this title;

(b) classification of property as new industrial property;

(c) any other tax (other than the property tax) imposed under this title; or

(d) any other matter in which such appeal is provided by law.

(2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department action. The complaint shall set forth the grounds for relief and nature of relief demanded. The board shall immediately transmit a copy of the complaint to the department.

(3) The department shall file with the board an answer within 30 days following filing of a complaint and at such time mail a copy to the complainant. The answer shall set

forth the department's response to each ground for and type of relief demanded in the complaint.

(4) The board shall thereafter hear the parties in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5) The board shall issue a ruling in any appeal brought before it within 90 days after its final hearing on the appeal or within 90 days after receipt of all evidence, statements, or objections under informal proceedings under the Montana Administrative Procedure Act if no hearing is held. If any appeal remains pending and undecided beyond the prescribed time period, the chairman of the board shall file an affidavit with the state auditor, who shall withhold payment to board members as provided in 15-2-301."

-End-

HOUSE BILL NO. 168

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DEPARTMENT OF REVENUE TO USE A METHOD OF VALUATION BASED ON CAPITALIZATION OF NET INCOME FOR VALUING AGRICULTURAL LANDS AFTER JANUARY 1, 1986; AMENDING SECTION 15-7-201, MCA; AND PROVIDING AN APPLICABILITY DATE AND A DELAYED EFFECTIVE DATE."

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

Section 1. Section 15-7-201, MCA, is amended to read:

"15-7-201. (Effective January 1, 1986) Legislative intent -- value of agricultural property. (1) Since the market value of many agricultural properties is based upon speculative purchases which do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties shall be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

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

(3) Within each class, land shall be assessed at a

value that is fairly based on its ~~ability-to-produce,-taking-into-consideration-the-classification-system-in-existence-on-January-1,--1986,--provided,--however,--the--department--may-consolidate--tillable--irrigated-land-classes.-With-relation-to--irrigated--land,--water--costs--shall--be---taken---into-consideration,--except-at-no-time-may-the-resulting-value-of-irrigated-land-be-reduced-below-the-value--such--land--would-have-if-it-were-not-irrigated~~ productive capacity.

(4) ~~Capital-costs-such-as-improved-water-distribution,-fertilizer,--and--land--shaping--that--increase-productivity-shall-not-be-used-in-determining-assessed--values.~~ For the revaluation cycle beginning after January 1, 1986, the department of revenue shall determine the productive capacity value of all agricultural lands using a method of appraisal based on capitalization of net income.

(5) Net income shall be:

(a) calculated for each year of a base period, which is the most recent 3-year period for which data are available, prior to a revaluation of property as provided in 15-7-111; and

(b) based on commodity price and production cost data for the base period from such sources as may be considered appropriate by the department, which sources may include the Montana state university department of agriculture.

(6) Net income shall be determined separately for

INTRODUCED BILL
HB 168

lands in irrigated use, nonirrigated use, and grazing use and shall be calculated for each use based on the production level comprising the greatest number of acres in each use.

(7) The capitalization rate shall be calculated for each year of the base period and is the annual average interest rate on agricultural loans as reported by the federal land bank association of Spokane, Washington, plus the effective tax rate in Montana.

(8) The effective tax rate shall be calculated by the department for each year of the base period by dividing the total dollar value of all property taxes levied in the state by the total taxable value of all taxable property in the state."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date -- applicability date. This act is effective January 1, 1986, and applies to any revaluation of property as provided in 15-7-111 after January 1, 1986.

-End-

STATE OF MONTANA

REQUEST NO. FNN104-85

F I S C A L   N O T E

Form BD-15

In compliance with a written request received January 15, 19 85 , there is hereby submitted a Fiscal Note for House Bill 168 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require the Department of Revenue to use a method of valuation based on capitalization of net income for valuing agricultural lands after January 1, 1986, and providing an effective date and a delayed applicability date.

FISCAL IMPACT:

The proposal will not affect agricultural land values for the current reappraisal cycle and therefore will have no fiscal impact until 1991. The bill offers the Department clear guidance on the appropriate methodology for updating agricultural land values for the next reappraisal cycle. The bill would mandate the use of the income approach for valuing timber land unless agricultural and timber lands are put in separate classes. This may have a large impact on timber values.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 21, 1985

FN2:E/2

HB 168

HOUSE BILL NO. 151

INTRODUCED BY Keyser, Switzer, [illegible] Jabarra (?)

A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE FROM $100 TO $800 THE MAXIMUM TAX LIABILITY TRIGGERING MANDATORY WAIVER OF THE REQUIREMENT FOR FILING A QUARTERLY SPECIAL FUELS TAX RETURN; AMENDING SECTION 15-70-325, MCA."

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

Section 1. Section 15-70-325, MCA, is amended to read:

"15-70-325. Returns. (1) For the purpose of determining the amount of his liability for the tax herein imposed, each special fuel dealer shall file with the department a monthly tax return and each special fuel user shall file with the department, on forms prescribed by said department, a quarterly tax return.

(2) Upon annual application, the department shall waive the filing of a quarterly tax return of any special fuel user who establishes that such user's annual tax liability is or will be ~~$100~~ <u>$800</u> or less.

(3) Such user shall make an annual report and return to the department on forms prescribed by said department, on or before January 31 of each year. Should the department determine that a user filing annual returns as herein provided is delinquent in making reports and payments, it

shall require such person to file quarterly returns as herein provided. Such return, annual or quarterly, shall contain a declaration by the person making the same to the effect that the statements contained are true and are made under penalties of perjury, which declarations shall have the same force and effect as a verification. The return shall show such information as the department may reasonably require for the proper administration and enforcement of this part.

(4) If a special fuel dealer or user is also a wholesale distributor of special fuel at a location where special fuel is delivered into the supply tank of a motor vehicle and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the return to the department need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made.

(5) The special fuel dealer or special fuel user shall file the return on or before the last day of the next succeeding calendar month following the period to which it relates; provided, however, that for good cause the department may grant a taxpayer a reasonable extension of time for filing but not to exceed 30 days."

<u>NEW SECTION.</u> Section 2. Extension of authority. Any existing authority of the department of revenue to make

INTRODUCED BILL

HB 151

rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

STATE OF MONTANA

REQUEST NO. FNN113-85

F I S C A L N O T E

Form BD-15

In compliance with a written request received January 16, 19 85, there is hereby submitted a Fiscal Note for H.B. 151 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to raise from $100 to $800 the maximum tax liability triggering mandatory waiver of the requirement for filing a quarterly special fuels tax return.

ASSUMPTIONS

The proposal will increase the clerical duties of the Motor Fuels Division prior to the January 31 deadline prescribed for annual reports and returns, but it will decrease the clerical duties of the Division prior to the deadlines for quarterly tax returns. However, when the annual payment deadline occurs, additional clerical and administrative work will occur because of an anticipated increase in delinquent tax payments. Some decrease in revenue will occur because of increased delinquencies. There will also be reduced revenues because of reduced interest earnings by the state.

FISCAL IMPACT:

The Department of Revenue is unable to estimate the net Fiscal impact of this proposal although it is felt it will be minor.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 22 1985 HB 151