

1 HB BILL NO. 107
 2 INTRODUCED BY J.P. W.
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT RESERVED
 6 RIGHTS OF ENTRY FROM TAXATION; AMENDING SECTIONS 84-202 AND
 7 84-301, R.C.M. 1947."

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

10 Section 1. Section 84-202, R.C.M. 1947, is amended to
 11 read as follows:

12 "84-202. Exemptions from taxation. (1) (a) The property
 13 of the United States, the state, counties, cities, towns,
 14 school districts, municipal corporations, public libraries,
 15 buildings with land they occupy and furnishings therein
 16 owned by a church and used for actual religious worship and
 17 for residences of the clergy, together with adjacent land
 18 reasonably necessary for convenient use of such buildings
 19 owned by a church, such other property as is used
 20 exclusively for agricultural and horticultural societies,
 21 for educational purposes, hospitals and places of burial not
 22 used or held for private or corporate profit, and
 23 institutions of purely public charity, evidence of debt
 24 secured by mortgages of record upon real or personal
 25 property in the state of Montana, and public art galleries

1 and public observatories not used or held for private or
 2 corporate profit, are exempt from taxation, but no more land
 3 than is necessary for such purpose is exempt.

4 (b) As used in this subsection, the term "institutions
 5 of purely public charity" shall include organizations owning
 6 and operating facilities for the care of the retired or aged
 7 or chronically ill which are not operated for gain or
 8 profit; and the terms "public art galleries and public
 9 observatories" shall mean only such art galleries and
 10 observatories whether of public or private ownership, as are
 11 open to the public, without charge or fee at all reasonable
 12 hours, and are used for the purpose of education only.

13 (2) When a clubhouse or building erected by or
 14 belonging to any society or organization of honorably
 15 discharged United States soldiers, sailors or marines who
 16 served in army or navy of United States, is used exclusively
 17 for educational, fraternal, benevolent or purely public
 18 charitable purposes, rather than for gain or profit,
 19 together with the library and furniture necessarily used in
 20 any such building, such property is exempt from taxation,
 21 and all property, real or personal, in the possession of
 22 legal guardians of incompetent veterans of the World War or
 23 minor dependents of such veterans, where such property is
 24 funds or derived from funds received from the United States
 25 as pension, compensation, insurance, adjusted compensation,

1 or gratuity, shall be exempt from all taxation as property
2 of the United States while held by the guardian, but not
3 after title passes to the veteran or minor in his or her own
4 right on account of removal of legal disability.

5 (3) All household goods and furniture, including
6 clocks, musical instruments, sewing machines, wearing
7 apparel of members of the family actually used by the owner
8 for personal and domestic purposes, or for furnishing or
9 equipping the family residence are exempt from taxation.

10 (4) Freeport merchandise shall be exempt from
11 taxation. Freeport merchandise means those stocks of
12 merchandise manufactured or produced outside this state
13 which are in transit through this state and consigned to a
14 warehouse or other storage facility, public or private,
15 within this state, for storage in transit prior to shipment
16 to a final destination outside the state, and which have
17 acquired a taxable situs within the state.

18 Stocks of merchandise do not lose their status as
19 freeport merchandise because while in the storage facility
20 they are assembled, bound, joined, processed, disassembled,
21 divided, cut, broken in bulk, relabeled or repackaged.

22 Any person, corporation, firm, partnership,
23 association, or other group seeking to qualify its property
24 for inclusion in this class shall make application to the
25 state department of revenue in such manner or form as may be

1 required by the department.

2 (5) [The following agricultural products are exempt
3 from taxation:]

4 (a) All unprocessed, perishable fruits and vegetables
5 in farm storage and owned by the producer are exempt from
6 taxation.

7 (b) All nonperishable unprocessed agricultural
8 products except livestock, held in possession of the
9 original producer for less than seven (7) months following
10 harvest.

11 (c) Livestock, defined as cattle, sheep, horses, or
12 mules, which have not attained the age of nine (9) months as
13 of the last day of any month.

14 (6) Moneys and credits are exempt from taxation.

15 (7) A capital investment in a recognized nonfossil
16 form of energy generation is exempt to the extent provided
17 under section 84-7403.

18 (8) The right to enter upon land to explore, prospect,
19 or dig for oil, gas, coal, or mineral which is reserved in
20 land or received by mesne conveyance (exclusive of leasehold
21 interests), devise, or succession by any person or
22 corporation, the surface title to which has passed to or
23 remains in another person or corporation, is exempt from
24 taxation."

25 Section 2. Section 84-301, R.C.M. 1987, is amended to

1 read as follows:

2 "84-301. Classification of property for taxation. For
3 the purpose of taxation the taxable property in the state
4 shall be classified as follows:

5 Class One. The annual net proceeds of all mines and
6 mining claims, except coal mines, after deducting only the
7 expenses specified and allowed by section 84-5403, ~~also~~
8 ~~where the right to enter upon land, to explore or prospect,~~
9 ~~or dig for oil, gas, coal or mineral is reserved in land or~~
10 ~~received by mesne conveyance (exclusive of leasehold~~
11 ~~interests), devise or succession by any person or~~
12 ~~corporation, the surface title to which has passed to or~~
13 ~~remains in another, the state department of revenue shall~~
14 ~~determine the value of the right to enter upon said tract of~~
15 ~~land for the purpose of digging, exploring, or prospecting~~
16 ~~for gas, oil, coal or minerals, and the same shall be placed~~
17 ~~in this classification for the purpose of taxation.~~

18 Class Two. All agricultural and other tools, implements
19 and machinery, gas and other engines and boilers, threshing
20 machines and outfits used therewith, automobiles, motor
21 trucks and other power-driven cars, vehicles of all kinds
22 except mobile homes, boats and all watercraft, harness,
23 saddlery and robes and except as provided in Class Five (a)
24 of this section, all poles, lines, transformers, transformer
25 stations, meters, tools, improvements, machinery and other

1 property used and owned by all persons, firms, corporations,
2 and other organizations which are engaged in the business of
3 furnishing telephone communications, exclusively to rural
4 areas, or to rural areas and cities and towns provided that
5 any such city or town has a population of eight hundred
6 (800) persons or less; and provided further, that the
7 average circuit miles for each station on the system is more
8 than one and one-quarter (1 1/4) miles.

9 Class Three. Livestock, poultry, and unprocessed
10 products of both; furniture and fixtures used in commercial
11 activities; the annual gross proceeds of underground coal
12 mines; and all office or hotel furniture and fixtures,
13 except improvements included in Class Nine.

14 Class Four. (a) All land, town and city lots, with
15 improvements, except improvements included in Class Nine,
16 and all trailers affixed to land owned, leased, or under
17 contract or purchase by the trailer owner, manufacturing and
18 mining machinery, fixtures and supplies, except as otherwise
19 provided by the constitution of Montana, and except as such
20 property may be included in Class Five, Class Seven or Class
21 Eight.

22 (b) Mobile homes without regard to the ownership of
23 the land upon which they are situated, except those held by
24 a distributor or dealer of mobile homes as part of his stock
25 in trade, and except as such property may be included in

1 Class Eight.

2 Class Five. (a) All poles, lines, transformers,
3 transformer stations, meters, tools, improvements, machinery
4 and other property used and owned by co-operative rural
5 electrical and co-operative rural telephone associations
6 organized under the laws of Montana except those within the
7 incorporated limits of a city or town in which less than
8 ninety-five per cent (95%) of the electric consumers and/or
9 telephone users are served by a co-operative organization,
10 and as to the property enumerated in this sub-section (a)
11 within incorporated limits of a city or town in which less
12 than ninety-five per cent (95%) of the electric consumers or
13 users will be served by a co-operative organization, such
14 property shall be put in Class Two.

15 (b) All unprocessed agricultural products either on
16 the farm or in storage, irrespective of whether said
17 products are owned by the elevator, warehouse or flour mill
18 owner or company storing the same, or any other person
19 whomsoever, except all perishable fruits and vegetables in
20 farm storage and owned by the producer, and excepting
21 livestock and poultry and the unprocessed products of both.

22 (c) The dwelling house, and the lot on which it is
23 erected, owned and occupied by any resident of the state,
24 who has been honorably discharged from active service in any
25 branch of the armed forces, who is rated one hundred per

1 cent (100%) disabled due to a service-connected disability
2 by the United States veterans administration or its
3 successors.

4 In the event of the veteran's death, the dwelling
5 house, and the lot on which it is erected, so long as the
6 surviving spouse remains unmarried and the owner and
7 occupant of the property, shall remain within this
8 classification.

9 Class Six. Property formerly included in this class is
10 now classified by section 84-308, R.C.M. 1947.

11 Class Seven. (a) All new industrial property. New
12 industrial property shall mean any new industrial plant,
13 including land, buildings, machinery and fixtures which, in
14 the determination of the state department of revenue, is
15 used by a new industry during the first three (3) years of
16 operation not having been assessed prior to July 1, 1961,
17 within the state of Montana. New industry shall mean any
18 person, corporation, firm, partnership, association, or
19 other group which establishes a new plant or plants in this
20 state for the operation of a new industrial endeavor, as
21 distinguished from a mere expansion, reorganization, or
22 merger of an existing industry or industries. Provided,
23 however, that new industrial property shall be limited to
24 industries that manufacture, mill, mine, produce, process or
25 fabricate materials, or do similar work in which capital and

1 labor are employed and in which materials unserviceable in
 2 their natural state are extracted, processed or made fit for
 3 use or are substantially altered or treated so as to create
 4 commercial products or materials; industries that engage in
 5 the mechanical or chemical transformation of materials or
 6 substances into new products in the manner defined as
 7 manufacturing in the 1972 Standard Industrial Classification
 8 Manual, prepared by the United States office of management
 9 and budget; and in no event shall the term new industrial
 10 property be included to mean property used by retail or
 11 wholesale merchants, commercial services of any type,
 12 agriculture, trades or professions. New industrial property
 13 does not include a plant which will create an adverse impact
 14 on existing state, county, or municipal services. The
 15 department shall promulgate regulations for the
 16 determination of what constitutes an adverse impact taking
 17 into consideration the number of people to be employed and
 18 the size of the community in which the location is
 19 contemplated. Once the department has made an initial
 20 determination that the industrial facility qualifies as new
 21 industrial property, the department shall then upon proper
 22 notice hold a hearing to determine if the new industrial
 23 classification should be retained by the property. The
 24 local taxing authority may appear at the hearing, and it
 25 also may waive its objection to retention of this

1 classification if the industry agrees to the prepayment of
 2 taxes sufficient to satisfy tax requirements created by the
 3 location and construction of the facility during
 4 construction period.

5 In the event of a prepayment of taxes, the maximum
 6 amount or prepayment shall be the amount without the
 7 application of the Class 7(a) to such property.

8 If a major new industrial facility qualifies under
 9 Class 7(a) the reduction of its yearly payment of property
 10 taxes for reimbursement of its prepaid taxes as provided for
 11 in section 84-41-105, R.C.M. 1947, shall not begin until the
 12 Class 7 qualification expires. And provided further, that
 13 new industrial property shall not be included to mean
 14 property which is used or employed in any industrial plant
 15 which has been in operation in this state for three (3)
 16 years or longer. Any person, corporation, firm, partnership,
 17 association or other group seeking to qualify its property
 18 for inclusion in this class shall make application to the
 19 state department of revenue in such manner and form as may
 20 be required by said department.

21 (b) Business inventories. Business inventories shall
 22 include goods intended for sale or lease in the ordinary
 23 course of business, and shall include raw materials and work
 24 in progress with respect to such goods, but shall not
 25 include goods actually leased or rented on the lien date, or

1 mobile homes held by a dealer or distributor as a part of
2 his stock in trade.

3 (c) Air pollution control equipment as defined in
4 section 69-3923.

5 (d) A capital investment in a recognized nonfossil
6 form of energy generation, to the extent provided under
7 section 84-7403.

8 Class Eight. (a) Any improvement on real property,
9 trailers affixed to land or mobile home belonging to any
10 person who qualifies under any one or more of the
11 hereinafter set forth categories, with appurtenant land not
12 exceeding five (5) acres, which together have a market value
13 of not more than twenty-seven thousand five hundred dollars
14 (\$27,500), which dwelling is owned or under a contract for
15 deed, and which is actually occupied for at least ten (10)
16 months per year as the primary residential dwelling of:

17 (1) a widow sixty-two (62) years of age or older,
18 whether with or without minor dependent children, who
19 qualifies under the income limitations of (4), or

20 (2) a widower sixty-two (62) years of age or older,
21 whether with or without minor dependent children, who
22 qualifies under the income limitations of (4), or

23 (3) a widow or widower with minor or dependent
24 children regardless of age, who qualifies under the income
25 limitations of (4), or

1 (4) a recipient or recipients of retirement or
2 disability benefits whose income from all sources is not
3 more than six thousand dollars (\$6,000) for a single person
4 and six thousand eight hundred dollars (\$6,800) for a
5 married couple total per annum whether said dwelling is
6 occupied by a single person or a married couple. Provided,
7 further, that one who applies for classification of property
8 under this class must make an affidavit to the state
9 department of revenue on a form as may be provided by the
10 state department of revenue supplied without cost to the
11 applicant, as to his income, if applicable, as to his
12 retirement benefits, if applicable, or, as to his marital
13 status, if applicable, and to the fact that he or she
14 actually occupies or maintains as his or her primary
15 residential dwelling, such land and improvements with right
16 of the county welfare board to investigate the applicant, on
17 the completion of the form, as to answers given on the form.
18 Provided, further, the assessed value of said property shall
19 not be increased during the life of the recipient of
20 retirement benefits or widow or widower covered under this
21 class, unless the owner-resident makes a substantial
22 improvement in the dwelling. For the purposes of the
23 affidavit required for classification of property under this
24 class, it shall be sufficient if the applicant signs a
25 statement swearing to or affirming the correctness of the

1 information supplied, whether or not the statement is signed
2 before a person authorized to administer oaths, and mails
3 the application and statement to the department of revenue.
4 This signed statement shall be treated as a statement under
5 oath or equivalent affirmation for purposes of section
6 94-7-203, R.C.M. 1947, relating to the criminal offense of
7 false swearing.

8 (b) A capital investment in a building for an energy
9 conservation purpose, to the extent provided under section
10 84-7403.

11 Class Nine. The incremental increase in the value of
12 real estate attributable to repairing, maintaining or
13 improving existing improvements.

14 Class Ten. The annual gross proceeds of coal mines
15 using the strip mining method.

16 Class Eleven. Centrally assessed utility allocations
17 after deductions of locally assessed properties and except
18 as provided in Class Two for rural telephones and Class Five
19 (a) for cooperatives, and all other property not included in
20 the ten (10) preceding classes."

-End-

STATE OF MONTANA

REQUEST NO. 26-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 77, there is hereby submitted a Fiscal Note for House Bill 107 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

This bill is an act to exempt reserved rights of entry from taxation.

ASSUMPTIONS

1. Total state mill levy is 7.6 mills.
2. Total mill levy for counties and schools is 133.03 mills.
3. The taxable valuation of reserved rights of entry for 1977 and 1978 are identical with the 1976 taxable valuations of reserved rights of entry.
4. Cities and towns will not be affected by the proposed change.

FISCAL IMPACT

If the proposed legislation is enacted it will result in a loss to the state of \$11,294 in each of the fiscal years.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE

Approximately \$200,000 in property tax would be lost by counties & schools.

LONG-RANGE EFFECTS

Approximately \$11,000 would be lost as a source of state revenue.

Richard L. [Signature]
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-13-77