

SENATE BILL NO. 142

In the Senate

January 17, 1979	Introduced and referred to the Committee on Taxation.
January 18, 1979	Fiscal note requested.
January 24, 1979	Fiscal note returned.
March 22, 1979	Committee recommend bill as amended.
March 23, 1979	Printed and placed on members' desks.
March 24, 1979	Second reading do pass.
March 26, 1979	Considered correctly engrossed
March 27, 1979	Third reading passed.

In the House

March 28, 1979	Introduced and referred to Committee on Taxation.
April 11, 1979	Committee recommend bill as amended.
April 12, 1979	Second reading concurred.
April 16, 1979	Third reading as amended.

In the Senate

April 17, 1979	Returned from House, concurred as amended.
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April 18, 1979

Second reading amendments
adopted.
On motion rules suspended.
Bill placed on calendar for
third reading this day.
Third reading amendments
adopted.
Sent to enrolling.

April 20, 1979

Signed by the President.

Governor

April 20, 1979

Delivered to Governor.

May 15, 1979

Vetoed.

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Christie
Hays
Turner
Johnson
Rasmussen
Johnson
Low
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Ernst
Porter
Ellis
Schultz
Ernst
Low
Hays

INTRODUCED BY *Christie* *Hays* *Turner* *Johnson* *Rasmussen* *Johnson*
A BILL FOR AN ACT ENTITLED: "AN ACT TO LOWER THE TAX RATE
ON MOST RESIDENTIAL, INDUSTRIAL, AND COMMERCIAL PROPERTY;
AMENDING SECTIONS 15-6-112, 15-6-116, AND 15-6-119, MCA;
REPEALING SECTION 15-7-121, MCA; AND PROVIDING FOR
APPLICABILITY AND AN IMMEDIATE EFFECTIVE DATE."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-112, MCA, is amended to read:
"15-6-112. Class eleven property -- description --
taxable percentage. (1) Class eleven property includes:
(a) all land except agricultural land meeting the
qualification of 15-7-202;
(b) all improvements except those included in classes
fifteen and eighteen;
(c) all trailers affixed to land owned, leased, or
under contract for purchase by the trailer owner; and
(d) all mobile homes except:
(i) those held by a distributor or dealer of mobile
homes as part of his stock-in-trade; and
(ii) those included in class fifteen.
(2) Class eleven property is taxed at ~~12%~~ *5%* of its
market value ~~or so much of 12% as is determined under~~

15-7-121-whichever-is-less."
Section 2. Section 15-6-116, MCA, is amended to read:
"15-6-116. Class fifteen property -- description --
taxable percentage. (1) Class fifteen property includes so
much of the market value of any improvement on real
property, a trailer affixed to land, or mobile home and
appurtenant land not exceeding 5 acres as does not exceed
\$35,000, when such dwelling and land are owned or under
contract for deed and are actually occupied for at least 10
months per year as the primary residential dwelling of:
(a) a widow or widower 62 years of age or older who
qualifies under the income limitations of (c) of this
subsection;
(b) a widow or widower of any age with dependent
children who qualifies under the income limitations of (c)
of this subsection; or
(c) a recipient or recipients of retirement or
disability benefits whose total income from all sources is
not more than \$7,000 for a single person or \$8,000 for a
married couple.
(2) (a) A person applying for classification of
property under this class must make an affidavit to the
department of revenue on a form provided by the department
without cost as to:
(i) his income, if applicable;

1 (ii) his retirement benefits, if applicable;
 2 (iii) his marital status, if applicable;
 3 (iv) the fact that he maintains the land and
 4 improvements as his primary residential dwellings; and
 5 (v) such other information as is relevant to the
 6 applicant's eligibility.

7 (b) This application must be made before March 1 of
 8 the year after the applicant becomes eligible under this
 9 classification.

10 (c) For the purpose of the affidavit required for
 11 classification of property under this class, it shall be
 12 sufficient if the applicant signs a statement swearing to or
 13 affirming the correctness of the information supplied,
 14 whether or not the statement is signed before a person
 15 authorized to administer oaths, and mails the application
 16 and statement to the department of revenue. This signed
 17 statement shall be treated as a statement under oath or
 18 equivalent affirmation for the purposes of 45-7-202,
 19 relating to the criminal offense of false swearing.

20 (3) Class fifteen property is taxed at ~~6% 2.2%~~ of its
 21 market value ~~or--so--much--of--6%--is--determined--under~~
 22 ~~15-7-121v--whichever--is--less."~~

23 Section 3. Section 15-6-119, MCA, is amended to read:
 24 "15-6-119. Class eighteen property -- description --
 25 taxable percentage. (1) Class eighteen property includes:

1 (a) a dwelling house and the lot on which it is
 2 erected, owned and occupied by a resident of the state who:
 3 (i) has been honorably discharged from active service
 4 in any branch of the armed services; and
 5 (ii) is rated 100% disabled due to a service-connected
 6 disability by the United States veterans' administration or
 7 its successor. In the event of the veteran's death, the
 8 dwelling house and the lot on which it is erected shall
 9 remain in this class as long as the surviving spouse remains
 10 unmarried and the owner and occupant of the property.

11 (b) all property used and owned by cooperative rural
 12 electrical and cooperative rural telephone associations as
 13 provided in (2)(a) of this section;

14 (c) air pollution control equipment as defined in this
 15 section; and

16 (d) new industrial property as defined in this
 17 section.

18 (2) (a) The property of all cooperative rural
 19 electrical and cooperative rural telephone associations
 20 organized under the laws of Montana is included in this
 21 class, except that when less than 95% of the electricity
 22 consumers or telephone users within the incorporated limits
 23 of a city or town are served by the cooperative
 24 organization, the property is included in class eighteen.

25 (b) "Air pollution control equipment" means

1 facilities, machinery, or equipment, attached or unattached
 2 to real property, utilized to reduce, eliminate, control, or
 3 prevent air pollution. The department of health and
 4 environmental sciences determines if such utilization is
 5 being made.

6 (c) "New industrial property" means any new industrial
 7 plant, including land, buildings, machinery, and fixtures,
 8 except mobile machinery, which is used by a new industry
 9 during the first 3 years of its operation. The property may
 10 not have been assessed prior to July 1, 1961, within the
 11 state of Montana.

12 (i) New industrial property is limited to industries
 13 that:

14 (A) manufacture, mill, mine, produce, process, or
 15 fabricate materials;

16 (B) do similar work, employing capital and labor, in
 17 which materials unserviceable in their natural state are
 18 extracted, processed, or made fit for use or are
 19 substantially altered or treated so as to create commercial
 20 products or materials; or

21 (C) engage in the mechanical or chemical
 22 transformation of materials or substances into new products
 23 in the manner defined as manufacturing in the 1972 Standard
 24 Industrial Classification Manual prepared by the United
 25 States office of management and budget.

1 (ii) New industrial property does not include:

2 (A) property used by retail or wholesale merchants,
 3 commercial services of any type, agriculture, trades, or
 4 professions;

5 (B) a plant that will create adverse impact on
 6 existing state, county, or municipal services; or

7 (C) property used or employed in any industrial plant
 8 that has been in operation in this state for 3 years or
 9 longer.

10 (d) "New industry" means any person, corporation,
 11 firm, partnership, association, or other group that
 12 establishes a new plant or plants in Montana for the
 13 operation of a new industrial endeavor, as distinguished
 14 from a mere expansion, reorganization, or merger of an
 15 existing industry or industries.

16 (3) The department of revenue shall promulgate rules
 17 for the determination of what constitutes an adverse impact,
 18 taking into consideration the number of people to be
 19 employed and the size of the community in which the location
 20 is contemplated. Any person, firm, or other group seeking to
 21 qualify its property for inclusion in this class shall make
 22 application to the department in such a manner and form as
 23 the department requires. Once the department has made an
 24 initial determination that the industrial facility qualifies
 25 as new industrial property, the department shall then, upon

1 proper notice, hold a hearing to determine if the new
2 industrial classification should be retained by the
3 property. The local taxing authority may appear at the
4 hearing and may waive its objection to retention of this
5 classification if the industry agrees to the prepayment of
6 taxes sufficient to satisfy tax requirements created by the
7 location and construction of the facility during the
8 construction period. When a prepayment of taxes is required,
9 the maximum amount of prepayment shall be the amount of tax
10 the industry would have paid without the application of the
11 class seven percentage to such property.

12 (4) If a major new industrial facility qualifies under
13 class eighteen, the reduction of its yearly payment of
14 property taxes for reimbursement of its prepaid taxes as
15 provided for in 15-16-201 does not begin until the class
16 eighteen qualification expires.

17 (5) Class eighteen property shall be taxed at 2.8% of
18 its market value ~~or, in the case of property classified~~
19 ~~under (1)(a) of this section, so much of 2.8% as is~~
20 ~~determined under 15-7-121, whichever is less."~~

21 Section 4. Repealer. Section 15-7-121, MCA, is
22 repealed.

23 Section 5. Effective date and applicability. This act
24 is effective on passage and approval and applies to taxable
25 years beginning after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 36-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 142 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

This bill would lower the tax rate on most residential, industrial, and commercial property and provides for applicability and an immediate effective date.

ASSUMPTIONS

- 1) The taxable value of the state will increase 5% per year.
- 2) The effect of this bill is to reduce the taxable value of the state by 14.3%.
- 3) The local government levy for all areas is 200 mills.
- 4) The state levy for the University System is 6 mills.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
6 mill university levy		
under current law	\$9,879,837	\$10,373,828
under proposed law	<u>8,467,010</u>	<u>8,890,371</u>
Estimated Decrease	<u>(\$1,412,827)</u>	<u>(\$ 1,483,457)</u>

EFFECT ON LOCAL GOVERNMENTS

This bill would cause local governments to lose \$47.1 M in FY80 and \$49.4 M in FY81. A county by county analysis, using 1978 data, is contained on the attached sheet.

LONG-RANGE EFFECTS

This proposal would decrease the taxable value of the state by 14% each year the bill is in effect.

PREPARED BY DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/24/79

EFFECT ON COUNTY TAXABLE VALUES HAD SB 142 BEEN IN EFFECT IN 1978

	Current Law	Proposed Law		Current Law	Proposed Law
Beaverhead	15,037,659	13,376,104	McCone	10,839,961	10,151,658
Big Horn	58,441,302	56,244,741	Meagher	5,008,686	4,575,270
Blaine	23,279,269	22,358,570	Mineral	4,785,648	4,001,567
Broadwater	6,611,199	5,881,350	Missoula	115,361,385	84,864,426
Carbon	19,796,421	17,509,499	Musselshell	13,470,010	12,681,563
Carter	7,175,092	6,796,503	Park	16,431,009	13,183,620
Cascade	93,150,492	71,767,474	Petroleum	2,799,172	2,687,302
Chouteau	26,792,694	25,135,528	Phillips	14,549,041	13,215,321
Custer	19,259,990	15,719,603	Pondera	18,690,518	17,047,225
Daniels	7,912,488	7,134,418	Powder River	76,802,794	76,278,132
Dawson	20,138,547	17,182,705	Powell	11,561,491	10,066,812
Deerlodge	18,505,944	15,733,047	Prairie	5,000,428	4,645,626
Fallon	34,276,491	33,376,230	Ravalli	21,862,328	17,829,457
Fergus	22,271,837	19,850,987	Richland	41,909,574	39,760,786
Flathead	77,720,699	58,362,978	Roosevelt	22,043,043	20,188,856
Gallatin	52,068,881	41,186,719	Rosebud	82,768,264	81,441,255
Garfield	6,254,155	5,947,613	Sanders	18,843,069	15,999,903
Glacier	32,122,376	30,521,853	Sheridan	19,395,309	18,145,972
Golden Valley	3,872,766	3,650,216	Silver Bow	54,809,850	45,537,482
Granite	5,292,364	4,735,231	Stillwater	12,018,764	10,746,620
Hill	35,688,600	31,060,844	Sweet Grass	6,746,691	5,943,711
Jefferson	8,824,416	7,590,389	Teton	16,178,032	14,750,516
Judith Basin	9,504,561	8,896,023	Toole	26,687,372	25,172,285
Lake	26,401,108	20,304,772	Treasure	3,653,626	3,481,245
Lewis & Clark	53,575,246	41,831,485	Valley	20,303,536	17,781,746
Liberty	12,825,042	11,912,398	Wheatland	5,002,876	4,618,511
Lincoln	26,114,037	21,772,000	Wibaux	7,824,745	7,490,174
Madison	14,730,953	12,748,089	Yellowstone	175,236,181	132,566,351
			COUNTY TOTAL	1,568,228,032	1,343,440,761

Please attach to Fiscal note on SB 142

Approved by Committee
on Taxation

SENATE BILL NO. 142

INTRODUCED BY FABREGA, ROSKIE, RAMIREZ, HEMSTAD,
KEYSER, NORDTVEDT, MOORE, MARKS, HURWITZ, ELLISON,
THOFT, TURNAGE, SIVERTSEN, LUND, IVERSON, STOBIE,
KOLSTAD, NATHE, PORTER, MEYER, ELLIS, SCHULTZ,
ERNST, GODDOVER, RASHUSSEN, JOHNSTON, FAGG, LOWE,
HAGER, CURTISS, JENSEN, VINGER, SEIFERT, BURNETT,
MYRICK, HAYNE, KROPP, UNDERDAL, GALT, O'HARA,
AKLESTAD, NELSON, OLSON, E. SMITH, SPILKER
LENSINK, STORY, HARRINGTON, HUENNEKENS

A BILL FOR AN ACT ENTITLED: ~~"AN ACT TO LOWER THE TAX RATE
ON MOST RESIDENTIAL, INDUSTRIAL, AND COMMERCIAL PROPERTY,
AMENDING SECTIONS 15-6-112, 15-6-116, AND 15-6-119, MEAS;
REPEALING SECTION 15-7-121, MEAS, AND PROVIDING FOR
APPLICABILITY AND AN IMMEDIATE EFFECTIVE DATE LIMIT THE
TAXABLE VALUE ON MOST RESIDENTIAL, INDUSTRIAL, AND
COMMERCIAL PROPERTY TO 5% OF ITS TRUE MARKET VALUE; AND
PROVIDING AN EFFECTIVE DATE."~~

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

NEW SECTION. Section 1. Limitation on taxable value.

(1) The taxable value as determined under the provisions of
15-8-111 of property in 15-6-112, 15-6-116, and
15-6-119(1)(a) may not exceed 5% of its true market value.

(2) "True market value" means the most current value
at which property would change hands between a willing buyer
and a willing seller, neither being under any compulsion to
buy or sell and both having reasonable knowledge of relevant
facts.
Section 2. Effective date. This act is effective on
passage and approval and applies to taxable years beginning
after December 31, 1978.

-End-

SENATE BILL NO. 142

INTRODUCED BY FABREGA, ROSKIE, RAMIREZ, HEMSTAD,
 KEYSER, NORDTVEDT, MOORE, MARKS, HURWITZ, ELLISON,
 THOFT, TURNAGE, SIVERTSEN, LUND, IVERSON, STOBIE,
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 HAGER, CURTISS, JENSEN, VINGER, SEIFERT, BURNETT,
 WYRICK, HAYNE, KROPP, UNDERDAL, GALT, O'HARA,
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 LENSINK, STORY, HARRINGTON, HUENNEKENS

A BILL FOR AN ACT ENTITLED: ~~"AN ACT TO LOWER THE TAX RATE~~
~~ON MOST RESIDENTIAL, INDUSTRIAL, AND COMMERCIAL PROPERTY;~~
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~~APPLICABILITY AND AN IMMEDIATE EFFECTIVE DATE~~ LIMIT THE
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COMMERCIAL PROPERTY TO 5% OF ITS CURRENT YEAR TRUE MARKET
VALUE; AND PROVIDING AN EFFECTIVE DATE."

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 15-6-119(1)(a) may not exceed 5% of its true market value.

(2) "True market value" means the most current YEAR
MARKET value at which property would change hands between a
 willing buyer and a willing seller, neither being under any
 compulsion to buy or sell and both having reasonable
 knowledge of relevant facts.

Section 2. Effective date. This act is effective on
 passage and approval and applies to taxable years beginning
 after December 31, 1978.

-End-

HOUSE OF REPRESENTATIVES

April 11, 1979

Committee on Taxation Amendments to Senate Bill No. 142,
third reading copy, as follows:

1. Title, line 18.
Following: "ITS"
Insert: "CURRENT YEAR"

2. Page 2, line 1.
Following: "the"
Strike: "most"
Following: "current"
Insert: "year market"

AND AS AMENDED
BE CONCURRED IN

The Big Sky Country



MONTANA STATE HOUSE OF REPRESENTATIVES

W.J. FABREGA (R)
REPRESENTATIVE DIST. #44

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES
TAXATION

HOME ADDRESS:
812 GRIZZLY DRIVE
GREAT FALLS, MT. 59404

May 14, 1979

The Honorable Thomas L. Judge
Governor of the State of Montana
Capitol Building
Helena, Montana 59601

Dear Governor Judge:

As chief co-sponsor of Senate Bill 142, I am hereby requesting that you veto this bill in view of the information that has surfaced since the legislature adjourned regarding the loss of some 3.2 million dollars of income to local governments from the taxation of mobile homes and the additional loss of revenue to the school foundation mill levy and the University mill levy. It is most unfortunate for all the property tax payers of Montana that this matter was not pointed out by the Department of Revenue during the hearings held on this bill. It is, therefore, with great regret that I request that you veto Senate Bill 142, which, in my opinion, would have provided the property tax payers of Montana, as well as the County and State Tax Appeal Boards, with a formula with which to determine an equitable application of property tax in Montana.

Again, I want to thank you for your personal telephone call of last Friday to discuss the problems that had been brought to your attention regarding this bill.

Very truly yours,

A handwritten signature in cursive script that reads "W. Jay Fabrega".

W. Jay Fabrega
House District #44

WJF/jpf

State of Montana
Office of The Governor
Helena 59601

THOMAS L. JUDGE
GOVERNOR

May 14, 1979

The Honorable William Mathers
President of the Senate
State Capitol
Helena, Montana 59601

The Honorable Harold Gerke
Speaker of the House
State Capitol
Helena, Montana 59601

Dear President Mathers and Speaker Gerke:

In accordance with the power vested in me as Governor pursuant to the laws and the Constitution of the State of Montana, I hereby veto Senate Bill No. 142, "AN ACT TO LIMIT THE VALUE ON MOST RESIDENTIAL, INDUSTRIAL, AND COMMERCIAL PROPERTY TO 5% OF ITS CURRENT YEAR TRUE MARKET VALUE: AND PROVIDING AN EFFECTIVE DATE."

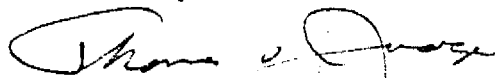
Senate Bill No. 142 was presented to the Legislature as a limitation on property assessments which would have no immediate effect on local government revenues. It now appears that there would be a 42% reduction in revenues from mobile homes caused by the 5% limitation together with confusion as to what the bill really means.

This legislation would not reduce assessments on most real property since its taxable value is less than 5% of current value. Moreover, taxable value will not reach this limit in the foreseeable future. Thus, for most people the bill holds an empty promise of relief. However, because of the effect on mobile homes, local tax bases will be eroded and mill levies will necessarily rise, shifting the tax burden to other kinds of property. The tax relief implied, turns out to be a tax increase for the majority.

The sponsor of Senate Bill No. 142, numerous legislators who voted for it, a broad cross section of county commissioners, mayors, local officials and school boards, have now asked for my veto. While I continue to support the concept of property tax limitation, I am convinced that this bill is not the proper vehicle for it. It will cause immediate dislocations in local government budgets; administrative entanglements in revising assessments already made; and foster litigation to clarify its effects.

For these reasons, I veto Senate Bill No. 142.

Sincerely,



THOMAS L. JUDGE
Governor

cc: Honorable Frank Murray