SENATE BILL 222

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Taxation.
January 29, 1979	Fiscal note requested.
February 1, 1979	Fiscal note returned.

Senate BILL NO. 222

INTRODUCED BY Bob Brown

A BILL FOR AN ACT ENTITLED: "AN ACT TO BASE THE APPRAISAL OF BUILDINGS ON VOLUME RATHER THAN MARKET VALUE; TO PROVIDE A TAX EXEMPTION FOR A PORTION OF ALL RESIDENTIAL DWELLINGS; AND TO PROVIDE CREDIT TOKENS FOR RENTERS IN LIEU OF THE TAX EXEMPTION; AMENDING SECTIONS 15-6-101, 15-6-108, 15-6-112, 15-6-115, 15-6-119, 15-6-121, 15-8-111, AND 15-24-1311, MCA; REPEALING SECTIONS 15-6-114, 15-6-116, AND 15-7-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the current method of appraising buildings on their market value requires appraisers to make value judgments, which may vary widely and produce uneven tax burdens across the state;

WHEREAS, constantly changing market values for buildings require continued reappraisals, which are costly; and

WHEREAS, a property tax based on market value penalizes property owners for improving and maintaining their property.

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

Section 1. Section 15-6-101, MCA, is amended to read:

"15-6-101. Property subject to taxation -- classification. (1) All property in this state is subject to taxation, except as provided otherwise.

(2) For the purpose of taxation, the taxable property in the state shall be classified in accordance with 15-6-102 through 15-6-121 <u>and [section 9]</u>."

Section 2. Section 15-6-108, MCA, is amended to read:

"15-6-108. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) centrally assessed utility allocations<u>, excluding buildings,</u> after deductions of locally assessed properties, except as provided in:

(i) class fourteen for rural telephones; and

(ii) class eighteen for cooperatives;

(b) all other property not included in classes one through six and classes eight through twenty;

(c) large trucks and commercial trailers valued in the department of revenue's truck and commercial trailer schedule.

(2) Class seven property is taxed at 16% of its market value."

Section 3. 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

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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%~~ 8.55% of its market value ~~or--so--much--of--12%--as-is-determined-under 15-7-121,-whichever-is-less.~~"

Section 4. Section 15-6-115, MCA, is amended to read:

"15-6-115. Class fourteen property -- description -- taxable percentage. (1) Class fourteen property includes:

(a) all poles, lines, transformers, transformer stations, meters, tools, improvements (excluding buildings), machinery, and other property, except that included in class eighteen, used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less. The average circuit miles for each station on the telephone communications system must be more than 1 1/4 miles to qualify for this classification.

(b) tools, implements, and machinery used to repair and maintain machinery not used for manufacturing and mining purposes;

(c) electric transformers and meters, electric light and power substation machinery, and natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by centrally assessed public utilities and tools used in the repair and maintenance of the property included in this subsection; and

(d) livestock, poultry, and unprocessed products of both.

(2) Class fourteen property is taxed at 6% of its market value."

Section 5. Section 15-6-119, MCA, is amended to read:

"15-6-119. Class eighteen property -- description -- taxable percentage. (1) Class eighteen property includes:

~~(a)--a-dwelling-house--and--the--lot--on--which--it--is erected,--owned-and-occupied-by-a-resident-of-the-state-who~~

~~(i)--has-been-honorably-discharged-from-active--service in-any-branch-of-the-armed-services;-and~~

~~(ii)-is--rated-100%-disabled-due-to-a-service-connected disability-by-the-United-States-veterans'-administration--or its--successor.--In--the--event--of-the-veteran's-death,-the dwelling-house-and-the-lot-on--which--it--is--erected--shall remain-in-this-class-as-long-as-the-surviving-spouse-remains~~

~~unmarried-and-the-owner-and-occupant-of-the-property.~~

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

~~(c)~~(b) air pollution control equipment as defined in this section; and

~~(d)~~(c) new industrial property as defined in this section.

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

(b) "Air pollution control equipment" means facilities (except buildings), machinery, or equipment, attached or unattached to real property, utilized to reduce, eliminate, control, or prevent air pollution. The department of health and environmental sciences determines if such utilization is being made.

(c) "New industrial property" means any new industrial plant, excluding buildings but including land, ~~buildings,~~ machinery, and fixtures, except mobile machinery, which is used by a new industry during the first 3 years of its

operation. The property may not have been assessed prior to July 1, 1961, within the state of Montana.

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

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

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

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

(ii) New industrial property does not include:

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

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

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

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

(3) The department of revenue shall promulgate rules for the determination of what constitutes an adverse impact, taking into consideration the number of people to be employed and the size of the community in which the location is contemplated. Any person, firm, or other group seeking to qualify its property for inclusion in this class shall make application to the department in such a manner and form as the department requires. Once the department has made an initial determination that the industrial facility qualifies as new industrial property, the department shall then, upon proper notice, hold a hearing to determine if the new industrial classification should be retained by the property. The local taxing authority may appear at the hearing and may waive its objection to retention of this classification if the industry agrees to the prepayment of taxes sufficient to satisfy tax requirements created by the location and construction of the facility during the construction period. When a prepayment of taxes is required, the maximum amount of prepayment shall be the amount of tax

the industry would have paid without the application of the class seven percentage to such property.

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

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

Section 6. Section 15-6-121, MCA, is amended to read:

"15-6-121. Class twenty property -- description -- taxable percentage. (1) There is a class of property which includes a pickup camper, travel trailer, including a fifth wheel trailer, or motor home which is owned by and is actually used primarily by a person 60 years of age or older who is retired from full employment and whose total income each year from all sources does not exceed ~~the-income limitations-set-in-class-fifteen--for--a--single--person--or married--couple,-whichever-is-applicable~~ $7,000 for a single person or $8,000 for a married couple.

(2) A person who applies for this classification must file ~~an-affidavit~~ a signed statement with the department of revenue ~~as-to-his-income,-as--set--forth--in--class--fifteen~~

showing his income, retirement benefits, and marital status. This statement must be filed before March 1 of the year in which the classification is sought. The signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing.

(3) This class of property is taxed at 6% of market value."

Section 7. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section, ~~and~~ in 15-7-111 through 15-7-114, and in [section 9].

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

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in class one and classes seven through eighteen. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in class one

and classes seven through eighteen is the percentage of market value established for each class of property in 15-6-102 and 15-6-108 through 15-6-119.

(5) The assessed value of properties in 15-6-103 through 15-6-107 and 15-6-120 is as follows:

(a) Property in 15-6-106, under class five, is assessed at 100% of book value by the method established in 15-6-106 and the sections cited therein.

(b) Properties in 15-6-103, under class two, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(c) Properties in 15-6-104, 15-6-105, and 15-6-120, under classes three, four, and nineteen are assessed at 100% of the annual gross proceeds.

(d) Properties in 15-6-107, under class six, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

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

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

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

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(7) The taxable value of all property in classes two through six is the percentage of assessed value established in 15-6-103 through 15-6-107 for each class of property.

(8) Property in [section 9], under class twenty-one, is assessed on its volume. The taxable value of the property is the percentage of assessed value determined by multiplying the assessed value by the tax rate established in [section 9]."

Section 8. Section 15-24-1311, MCA, is amended to read:

"15-24-1311. Remodeling of homes, buildings, or structures -- assessment provisions. (1) Remodeling of existing buildings or structures shall receive tax benefits ~~in--lieu--of--those--provided--under--15-6-114,~~ during the construction period and for the following 5 years in accordance with the following schedule. These percentages shall be applied to any increase in taxable value caused by the remodeling:

Construction period	0%
First year following construction	20%
Second year following construction	40%
Third year following construction	60%
Fourth year following construction	80%
Fifth year following construction	100%
Following years	100%

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(2) If an existing home, building, or structure is not remodeled as defined in this chapter within the 10 years following passage of this act, a 5% increase shall be added to its taxable value each year that the owner fails to remodel to a maximum of 50%. After a home, building, or structure has been remodeled, the provisions of this section shall be considered to be started again with the beginning of a new 10-year period.

(3) The governing body shall waive the provisions of this section unless it can be demonstrated that lack of regular maintenance over a period of time has failed to maintain the value of the property and that depreciation has taken place to lower the value of the property more than 2 1/2%."

NEW SECTION. Section 9. Class twenty-one property -- description -- taxable percentage. (1) There is a class of property that includes all buildings.

(2) Class twenty-one property is taxed at the rat established under (3).

(3) The department shall divide the total taxable value of all buildings in the state on January 1, 1979, and divide it by the total volume of all buildings in the state on January 1, 1980. The resulting value is the tax rate.

NEW SECTION. Section 10. Appraising buildings. (1) A building is appraised on its volume in cubic feet.

(2) The volume is determined by the product of the building's internal measurements, including all enclosed areas.

NEW SECTION. Section 11. Portion of each residential building exempt. A portion of each building used for human habitation is exempt from property taxation as follows:

(1) 75 cubic feet for each person occupying a residential dwelling for at least 10 months of the year;

(2) an additional 75 cubic feet for each person over 65 years old occupying a residential dwelling for at least 10 months of the year.

NEW SECTION. Section 12. Credit to renter -- use in paying property taxes. (1) Any person who has lived in a residential rental unit or leased a residential building for at least 10 months of the previous year may apply in December of that year to the county treasurer of the county in which the rental unit is located for a credit token.

(2) The county treasurer shall issue the credit token for the amount that the exemption allowed for the renter's occupancy reduced the property owner's tax. The amount is calculated as follows. The treasurer:

(a) divides 75 cubic feet by the appraised volume of the unit or building; and

(b) multiplies the amount in (a) by the total property tax due on the rental unit that year.

(3) Parents may complete applications for credit tokens for minors residing in rental units or leased dwellings.

(4) A tenant may present and the landlord shall accept the credit token in place of that amount of rent or lease payments due on the rental unit or leased building.

(5) The owner may present these credit tokens to the county treasurer as partial payment for property taxes due.

Section 13. Repealer. Sections 15-6-114, 15-6-116, and 15-7-121, MCA, are repealed.

Section 14. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 15. Effective date. This act is effective on passage and approval and applies to taxable years beginning after December 31, 1978.

-End-

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STATE OF MONTANA

REQUEST NO. 160-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 222 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 proposed bill is an act to base the appraisal of buildings on volume rather than market value; to provide a tax exemption for a portion of all residential dwellings; and to provide credit tokens for renters in lieu of the tax exemption; and provides an an effective date.

ASSUMPTIONS

There are no data available to estimate the fiscal impact of this proposal. It is felt that there would be substantial one-time costs in determining the volume of each building in the state by January 1, 1980.

TECHNICAL NOTE

The effective date of this proposal should be changed to December 31, 1979, because section 9 paragraph 3 requires the volume to be computed on January 1, 1980. Otherwise there is uncertainty as to how buildings should be taxed in 1979.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. [illegible] for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/1/79