

House Bill 86

In The House

January 6, 1981	Introduced and referred to Committee on Taxation.
January 7, 1981	Fiscal note requested.
January 15, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

1                    HOUSE BILL NO. 86  
2 INTRODUCED BY YARDLEY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A FEE IN  
5 LIEU OF PROPERTY TAX FOR AUTOMOBILES, LIGHT TRUCKS, AND  
6 MOTORCYCLES; REMOVING AUTOMOBILES, LIGHT TRUCKS,  
7 MOTORCYCLES, MOTOR HOMES, TRAVEL TRAILERS, CAMPER, AND  
8 SNOWMOBILES FROM THE PROPERTY TAX ASSESSMENT STATUTES;  
9 EXEMPTING MOTORCYCLES RATED AT 2 HORSEPOWER OR LESS FROM THE  
10 FEE IN LIEU OF TAX; AMENDING SECTIONS 10-2-301, 15-6-135,  
11 15-6-139 THROUGH 15-6-140, 15-6-201, 15-8-201, 15-8-202,  
12 15-30-121, 15-31-114, 15-50-207, 61-3-303, 61-3-501 THROUGH  
13 61-3-504, 61-3-506, 61-3-509, 61-3-521, AND 61-3-701, MCA."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16        NEW SECTION. Section 1. Light truck. "Light truck"  
17 means a truck with a manufacturer's rated capacity of  
18 three-quarters of a ton or less.

19        NEW SECTION. Section 2. Vehicle age. The age of a  
20 vehicle is determined by subtracting the manufacturer's  
21 designated model year from the current calendar year.

22        NEW SECTION. Section 3. Schedule of fees for  
23 automobiles and light trucks weighing 3,000 pounds or less.  
24 The owner of an automobile or light truck weighing 3,000  
25 pounds or less, manufacturer's shipping weight, shall pay a

1 fee based on the age of the vehicle according to the  
2 following schedule:

3	less than 2 years old	\$165
4	2 years old and less than 3 years old	145
5	3 years old and less than 4 years old	115
6	4 years old and less than 5 years old	85
7	5 years old and less than 6 years old	70
8	6 years old and less than 7 years old	50
9	7 years old and less than 8 years old	40
10	8 years old and less than 9 years old	30
11	9 years old and less than 10 years old	20
12	10 years old and less than 11 years old	15
13	11 years old and less than 12 years old	10
14	12 years old and older	5

15        NEW SECTION. Section 4. Schedule of fees for  
16 automobiles and light trucks weighing more than 3,000  
17 pounds. The owner of an automobile or light truck weighing  
18 more than 3,000 pounds, manufacturer's shipping weight,  
19 shall pay a fee based on the age of the vehicle according to  
20 the following schedule:

21	less than 2 years old	\$205
22	2 years old and less than 3 years old	185
23	3 years old and less than 4 years old	150
24	4 years old and less than 5 years old	115
25	5 years old and less than 6 years old	90

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1	6 years old and less than 7 years old	70
2	7 years old and less than 8 years old	50
3	8 years old and less than 9 years old	40
4	9 years old and less than 10 years old	30
5	10 years old and less than 11 years old	20
6	11 years old and less than 12 years old	15
7	12 years old and older	10

8 **NEW SECTION.** Section 5. Schedule of fees for  
 9 motorcycles. (1) Except as provided in 15-6-201, the owner  
 10 of a motorcycle with a piston displacement of more than 100  
 11 cubic centimeters shall pay a fee based on the age of the  
 12 motorcycle according to the following schedule:

13	less than 3 years old	\$30
14	3 years old and less than 4 years old	25
15	4 years old and less than 6 years old	15
16	6 years old and less than 7 years old	10
17	7 years old and older	5

18 (2) Except as provided in 15-6-201, the owner of a  
 19 motorcycle with a piston displacement of 100 cubic  
 20 centimeters or less shall pay a fee of one-half of the  
 21 amount required for the age of the motorcycle under the  
 22 schedule in subsection (1) except that the minimum fee for a  
 23 motorcycle under this subsection is \$5.

24 **NEW SECTION.** Section 6. Dealers exempt from fee. (1)  
 25 The fee in lieu of property tax need not be paid by a dealer

1 for automobiles, light trucks, motor homes, travel trailers,  
 2 campers, or motorcycles held for sale or used in the  
 3 dealer's business in selling or demonstrating the vehicles.  
 4 Vehicles exempt under this section may not be used for the  
 5 personal use of the dealer, his family, or employees or for  
 6 any use not necessary in the pursuit of business.

7 (2) The department of revenue or the county treasurer  
 8 may investigate the status of any vehicle for which an  
 9 exemption is claimed under subsection (1). If it is  
 10 determined that the vehicle is not exempt the department or  
 11 the county treasurer may require payment of the fee in lieu  
 12 of tax.

13 Section 7. Section 10-2-301, MCA, is amended to read:  
 14 "10-2-301. Free license plates to disabled veterans.  
 15 Any person who is a veteran of the armed service of the  
 16 United States and 100% disabled because of an injury which  
 17 ~~that~~ has been determined by the veterans administration to  
 18 be service connected and who is a citizen and resident of  
 19 the state of Montana and who is the owner of a passenger  
 20 automobile or ~~of a~~ truck up to and including three-quarter  
 21 ton GVW-rated capacity ~~shall be provided with is entitled to~~  
 22 ~~receive~~ free license plates ~~upon payment of person's~~  
 23 ~~property tax equal to 1% of the taxable value for such~~  
 24 ~~automobile or truck and~~ upon proof of 100% service-connected  
 25 disability."

1 Section 8. Section 15-6-135, MCA, is amended to read:

2 "15-6-135. Class five property -- description --  
3 taxable percentage. (1) Class five property includes:

4 (a) all property used and owned by cooperative rural  
5 electrical and cooperative rural telephone associations  
6 organized under the laws of Montana, except property owned  
7 by cooperative organizations described in subsection (1)(c)  
8 of 15-6-137;

9 (b) air and water pollution control equipment as  
10 defined in this section;

11 ~~(c) --truck campers, motor homes, and camping and travel~~  
12 ~~trailers, including fifth wheel trailers, owned by and~~  
13 ~~actually used primarily by a person 60 years of age or older~~  
14 ~~who~~

15 ~~(i) --is retired from full employment and~~  
16 ~~(ii) whose total income from all sources is not more~~  
17 ~~than \$7,000 for a single person or \$8,000 for a married~~  
18 ~~couple~~

19 ~~(d)(1)~~ new industrial property as defined in this  
20 section;

21 ~~(e)(1)~~ any personal or real property used primarily in  
22 the production of gasohol during construction and for the  
23 first 3 years of its operation.

24 (2) (a) "Air and water pollution equipment" means  
25 facilities, machinery, or equipment used to reduce or

1 control water or atmospheric pollution or contamination by  
2 removing, reducing, altering, disposing, or storing  
3 pollutants, contaminants, wastes, or heat. The department of  
4 health and environmental sciences shall determine if such  
5 utilization is being made.

6 (b) The department's determination [as to air  
7 pollution equipment] may be appealed to the board of health  
8 and environmental sciences and may not be appealed to either  
9 a county tax appeal board or the state tax appeal board.  
10 However, the appraised value of the equipment as determined  
11 by the department of revenue may be appealed to the county  
12 tax appeal board and the state tax appeal board.

13 (3) "New industrial property" means any new industrial  
14 plant, including land, buildings, machinery, and fixtures,  
15 used by new industries during the first 3 years of their  
16 operation. The property may not have been assessed within  
17 the state of Montana prior to July 1, 1961.

18 (4) (a) "New industry" means any person, corporation,  
19 firm, partnership, association, or other group that  
20 establishes a new plant in Montana for the operation of a  
21 new industrial endeavor, as distinguished from a mere  
22 expansion, reorganization, or merger of an existing  
23 industry.

24 (b) New industry includes only those industries that:  
25 (i) manufacture, mill, mine, produce, process, or

1 fabricate materials;

2 (ii) do similar work, employing capital and labor, in

3 which materials unserviceable in their natural state are

4 extracted, processed, or made fit for use or are

5 substantially altered or treated so as to create commercial

6 products or materials; or

7 (iii) engage in the mechanical or chemical

8 transformation of materials or substances into new products

9 in the manner defined as manufacturing in the 1972 Standard

10 Industrial Classification Manual prepared by the United

11 States office of management and budget.

12 (5) New industrial property does not include:

13 (a) property used by retail or wholesale merchants,

14 commercial services of any type, agriculture, trades, or

15 professions;

16 (b) a plant that will create adverse impact on

17 existing state, county, or municipal services; or

18 (c) property used or employed in any industrial plant

19 that has been in operation in this state for 3 years or

20 longer.

21 (6) Class five property is taxed at 2% of its market

22 value."

23 Section 9. Section 15-6-138, MCA, is amended to read:

24 "15-6-138. Class eight property -- description --

25 taxable percentage. (1) Class eight property includes:

1 (a) all agricultural implements and equipment;

2 (b) all mining machinery, fixtures, equipment, tools,

3 and supplies except:

4 (i) those included in class five; and

5 (ii) coal and ore haulers;

6 (c) all manufacturing machinery, fixtures, equipment,

7 tools, and supplies except those included in class five;

8 ~~(d) motorcycles;~~

9 ~~(e)(d) watercraft;~~

10 ~~(f)(e) light utility and boat trailers;~~

11 ~~(g)(f) aircraft;~~

12 ~~(h)(g) snowmobiles and all-terrain vehicles;~~

13 ~~(i)(h) harness, saddlery, and other tack equipment;~~

14 and

15 ~~(j)(i) all other machinery except that specifically~~

16 ~~included in another class.~~

17 (2) Class eight property is taxed at 11% of its market

18 value."

19 Section 10. Section 15-6-139, MCA, is amended to read:

20 "15-6-139. Class nine property -- description --

21 taxable percentage. (1) Class nine property includes:

22 (a) ~~automobiles,~~ buses, and trucks weighing 1 1/2 tons

23 or less ~~(except light trucks, as defined in [section 1]);~~

24 (b) ~~stocky-camping-and-travel~~ trailers;

25 ~~(c) truck-campers and toppers weighing more than 3000~~

1 ~~pounds; except those included in class five;~~  
 2 ~~(c)~~ motor homes except those included in class  
 3 five;  
 4 ~~(d)~~ furniture, fixtures, and equipment, except that  
 5 specifically included in another class, used in commercial  
 6 establishments as defined in this section;  
 7 ~~(e)~~ x-ray and medical and dental equipment; and  
 8 ~~(f)~~ citizens' band radios and mobile telephones.  
 9 (2) "Commercial establishment" includes any hotel;  
 10 motel; office; petroleum marketing station; or service,  
 11 wholesale, retail, or food-handling business.  
 12 (3) Class nine property is taxed at 13% of its market  
 13 value."  
 14 Section 11. Section 15-6-140, MCA, is amended to read:  
 15 "15-6-140. Class ten property -- description --  
 16 taxable percentage. (1) Class ten property includes:  
 17 (a) radio and television broadcasting and transmitting  
 18 equipment;  
 19 (b) cable television systems;  
 20 (c) centrally assessed utility allocations after  
 21 deductions of locally assessed properties, except as  
 22 provided in:  
 23 (i) class five for cooperative rural electrical and  
 24 cooperative rural telephone associations; and  
 25 (ii) class seven for rural telephone and electrical

1 organizations;  
 2 (d) coal and ore haulers;  
 3 (e) trucks weighing more than 1 1/2 tons, including  
 4 those prorated under 15-24-102;  
 5 (f) trailers, except those included in ~~classes five,~~  
 6 ~~eight, or nine another class or on which a fee in lieu of~~  
 7 ~~tax is charged,~~ including those prorated under 15-24-102;  
 8 (g) theater projectors and sound equipment; and  
 9 (h) all other property not included in the preceding  
 10 nine classes.  
 11 (2) Class ten property is taxed at 16% of its market  
 12 value."  
 13 Section 12. Section 15-6-201, MCA, is amended to read:  
 14 "15-6-201. Exempt categories. (1) The following  
 15 categories of property are exempt from taxation:  
 16 (a) the property of:  
 17 (i) the United States, the state, counties, cities,  
 18 towns, school districts;  
 19 (ii) irrigation districts organized under the laws of  
 20 Montana and not operating for profit;  
 21 (iii) municipal corporations; and  
 22 (iv) public libraries;  
 23 (b) buildings, with land they occupy and furnishings  
 24 therein, owned by a church and used for actual religious  
 25 worship or for residences of the clergy, together with

1 adjacent land reasonably necessary for convenient use of  
2 such buildings;

3 (c) property used exclusively for agricultural and  
4 horticultural societies, for educational purposes, and for  
5 hospitals;

6 (d) property that meets the following conditions:

7 (i) is owned and held by any association or  
8 corporation organized under Title 35, chapter 2, 3, 20, or  
9 21;

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

14 (iii) is not maintained and operated for private or  
15 corporate profit;

16 (e) institutions of purely public charity;

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

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

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

1 (i) a truck canopy cover or topper weighing less than  
2 300 pounds and having no accommodations attached. Such  
3 property is also exempt from the fee in lieu of tax.

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

6 ~~(k) a motorcycle rated at 2 horsepower or less. Such~~  
7 ~~property is also exempt from the fee in lieu of tax.~~

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

12 (b) The terms "public art galleries" and "public  
13 observatories" include only those art galleries and  
14 observatories, whether of public or private ownership, that  
15 are open to the public without charge at all reasonable  
16 hours and are used for the purpose of education only.

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

22 (a) \$20,000 in the case of a single family residential  
23 dwelling;

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

1 Section 13. Section 15-8-201, MCA, is amended to read:

2 "15-8-201. General assessment day. (1) The department  
3 of revenue or its agent must, between January 1 and the  
4 second Monday of July in each year, ascertain the names of  
5 all taxable inhabitants and assess all property subject to  
6 taxation in each county. The department or its agent must  
7 assess property to the person by whom it was owned or  
8 claimed or in whose possession or control it was at midnight  
9 of January 1 next preceding. It must also ascertain and  
10 assess all mobile homes arriving in the county after  
11 midnight of January 1 next preceding. No mistake in the name  
12 of the owner or supposed owner of real property, however,  
13 renders the assessment invalid.

14 (2) The procedure provided by this section may not  
15 apply to:

16 (a) motor vehicles that are required by 15-8-202 to be  
17 assessed on January 1 or upon their anniversary registration  
18 date;

19 ~~(b) motor vehicles subject to the fee in lieu of~~  
20 ~~property tax;~~

21 ~~(b)(c) motor homes and travel trailers subject to a~~  
22 ~~fee in lieu of property tax;~~

23 ~~(c) livestock;~~

24 ~~(d)(e) property defined in 61-1-104(2) as "special~~  
25 ~~mobile equipment" that is subject to assessment for personal~~

1 property taxes on the date that application is made for a  
2 special mobile equipment plate; and

3 ~~(e)(f) mobile homes held by a distributor or dealer of~~  
4 ~~mobile homes as a part of his stock-in-trade.~~

5 (3) Credits must be assessed as provided in  
6 15-1-101(1)(c)."

7 Section 14. Section 15-8-202, MCA, is amended to read:

8 "15-8-202. Motor vehicle assessment. (1) (a) The  
9 department or its agent must, in each year, ascertain and  
10 assess all motor vehicles other than ~~motor-homes, travel~~  
11 ~~trailers, or vehicles subject to a fee in lieu of property~~  
12 ~~tax and~~ mobile homes in each county subject to taxation as  
13 of January 1 or as of the anniversary registration date of  
14 those vehicles subject to 61-3-313 through 61-3-316 and  
15 61-3-501. The motor vehicles shall be assessed in each year  
16 to the persons by whom owned or claimed or in whose  
17 possession or control they were at midnight of January 1 or  
18 the anniversary registration date thereof, whichever is  
19 applicable.

20 (b) No tax may be assessed against motor vehicles that  
21 constitute inventory of motor vehicle dealers as of January  
22 1. These vehicles and all other motor vehicles brought into  
23 the state subsequent to January 1 as motor vehicle dealers'  
24 inventories shall be assessed to their respective purchasers  
25 as of the dates the vehicles are registered by the

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1 purchasers.

2 (c) "Purchasers" includes dealers who apply for  
3 registration or reregistration of motor vehicles, except as  
4 otherwise provided by 61-3-502.

5 (d) Goods, wares, and merchandise of motor vehicle  
6 dealers, other than new motor vehicles and new mobile homes,  
7 shall be assessed at market value as of January 1.

8 (2) In all cases where taxes or a fee in lieu of tax  
9 were required to be paid, the applicant for registration or  
10 reregistration of a motor vehicle, other than a mobile home,  
11 is not relieved of the duty of paying taxes or the fee in  
12 lieu of tax if the taxes or fees have not been paid by a  
13 prior applicant or owner."

14 Section 15. Section 15-30-121, MCA, is amended to  
15 read:

16 "15-30-121. Deductions allowed in computing net  
17 income. In computing net income, there are allowed as  
18 deductions:

19 (1) the items referred to in sections 161 and 211 of  
20 the Internal Revenue Code of 1954, or as sections 161 and  
21 211 shall be labeled or amended, subject to the following  
22 exceptions which are not deductible:

- 23 (a) items provided for in 15-30-123;  
24 (b) state income tax paid;  
25 (2) federal income tax paid within the taxable year;

1 (3) child and dependent care expenses determined in  
2 accordance with the provisions of section 214 of the  
3 Internal Revenue Code of 1954 that were in effect for the  
4 taxable year that began January 1, 1974. However, the  
5 limitation set forth in section 214(e)(4) of the Internal  
6 Revenue Code of 1954 as that section was in effect for the  
7 taxable year that began January 1, 1974, applies only to  
8 payments made to a child of the taxpayer who is under 19  
9 years of age at the close of the taxable year and to  
10 payments made to an individual with respect to whom a  
11 deduction is allowable under 15-30-112(5) to the taxpayer or  
12 the taxpayer's spouse.

13 (4) that portion of an energy-related investment  
14 allowed as a deduction under 15-32-103;

15 (5) in the case of an individual, political  
16 contributions determined in accordance with the provisions  
17 of section 212(a) and (b) of the Internal Revenue Code that  
18 were in effect for the taxable year ended December 31,  
19 1978*i*

20 ~~(5) fees in lieu of property tax paid for automobiles,  
21 light trucks, motor homes, travel trailers, campers,  
22 motorcycles, and snowmobiles."~~

23 Section 15. Section 15-31-114, MCA, is amended to  
24 read:

25 "15-31-114. Deductions allowed in computing income. In

1 computing the net income, the following deductions shall be  
 2 allowed from the gross income received by such corporation  
 3 within the year from all sources:

4 (1) All the ordinary and necessary expenses paid or  
 5 incurred during the taxable year in the maintenance and  
 6 operation of its business and properties, including  
 7 reasonable allowance for salaries for personal services  
 8 actually rendered, subject to the limitation hereinafter  
 9 contained, rentals or other payments required to be made as  
 10 a condition to the continued use or possession of property  
 11 to which the corporation has not taken or is not taking  
 12 title or in which it has no equity. No deduction shall be  
 13 allowed for salaries paid upon which the recipient thereof  
 14 has not paid Montana state income tax; provided, however,  
 15 that where domestic corporations are taxed on income derived  
 16 from without the state, salaries of officers paid in  
 17 connection with securing such income shall be deductible.

18 (2) (a) All losses actually sustained and charged off  
 19 within the year and not compensated by insurance or  
 20 otherwise, including a reasonable allowance for the wear and  
 21 tear and obsolescence of property used in the trade or  
 22 business, such allowance to be determined according to the  
 23 provisions of section 167 of the Internal Revenue Code in  
 24 effect with respect to the taxable year. All elections for  
 25 depreciation shall be the same as the elections made for

1 federal income tax purposes. No deduction shall be allowed  
 2 for any amount paid out for any buildings, permanent  
 3 improvements, or betterments made to increase the value of  
 4 any property or estate, and no deduction shall be made for  
 5 any amount of expense of restoring property or making good  
 6 the exhaustion thereof for which an allowance is or has been  
 7 made.

8 (b) (i) There shall be allowed as a deduction for the  
 9 taxable period a net operating loss deduction determined  
 10 according to the provisions of this subsection. The net  
 11 operating loss deduction is the aggregate of net operating  
 12 loss carryovers to such taxable period plus the net  
 13 operating loss carrybacks to such taxable period. The term  
 14 "net operating loss" means the excess of the deductions  
 15 allowed by this section, 15-31-114, over the gross income,  
 16 with the modifications specified in (ii) of this subsection.  
 17 If for any taxable period beginning after December 31, 1970,  
 18 a net operating loss is sustained, such loss shall be a net  
 19 operating loss carryback to each of the three taxable  
 20 periods preceding the taxable period of such loss and shall  
 21 be a net operating loss carryover to each of the five  
 22 taxable periods following the taxable period of such loss. A  
 23 net operating loss for any taxable period ending after  
 24 December 31, 1975, in addition to being a net operating loss  
 25 carryback to each of the three preceding taxable periods,

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1 shall be a net operating loss carryover to each of the seven  
 2 taxable periods following the taxable period of such loss.  
 3 The portion of such loss which shall be carried to each of  
 4 the other taxable years shall be the excess, if any, of the  
 5 amount of such loss over the sum of the net income for each  
 6 of the prior taxable periods to which such loss was carried.  
 7 For purposes of the preceding sentence, the net income for  
 8 such prior taxable period shall be computed with the  
 9 modifications specified in (ii)(B) of this subsection and by  
 10 determining the amount of the net operating loss deduction  
 11 without regard to the net operating loss for the loss period  
 12 or any taxable period thereafter, and the net income so  
 13 computed shall not be considered to be less than zero.

14 (ii) The modifications referred to in (i) of this  
 15 subsection shall be as follows:

16 (A) No net operating loss deduction shall be allowed.

17 (B) The deduction for depletion shall not exceed the  
 18 amount which would be allowable if computed under the cost  
 19 method.

20 (C) Any net operating loss carried over to any taxable  
 21 years beginning after December 31, 1973, must be calculated  
 22 under the provisions of this section effective for the  
 23 taxable year for which the return claiming the net operating  
 24 loss carryover is filed.

25 (iii) A net operating loss deduction shall be allowed

1 only with regard to losses attributable to the business  
 2 carried on within the state of Montana.

3 (iv) In the case of a merger of corporations, the  
 4 surviving corporation shall not be allowed a net operating  
 5 loss deduction for net operating losses sustained by the  
 6 merged corporations prior to the date of merger. In the case  
 7 of a consolidation of corporations, the new corporate entity  
 8 shall not be allowed a deduction for net operating losses  
 9 sustained by the consolidated corporations prior to the date  
 10 of consolidation.

11 (v) Notwithstanding the provisions of 15-31-531,  
 12 interest shall not be paid with respect to a refund of tax  
 13 resulting from a net operating loss carryback or carryover.

14 (vi) The net operating loss deduction shall not be  
 15 allowed with respect to taxable periods which ended on or  
 16 before December 31, 1970, but shall be allowed only with  
 17 respect to taxable periods beginning on or after January 1,  
 18 1971.

19 (3) In the case of mines, other natural deposits, oil  
 20 and gas wells, and timber, a reasonable allowance for  
 21 depletion and for depreciation of improvements; such  
 22 reasonable allowance to be determined according to the  
 23 provisions of the Internal Revenue Code in effect for the  
 24 taxable year. All elections made under the Internal Revenue  
 25 Code with respect to capitalizing or expensing exploration

1 and development costs and intangible drilling expenses for  
2 corporation license tax purposes shall be the same as the  
3 elections made for federal income tax purposes.

4 (4) The amount of interest paid within the year on its  
5 indebtedness incurred in the operation of the business from  
6 which its income is derived; but no interest shall be  
7 allowed as a deduction if paid on an indebtedness created  
8 for the purchase, maintenance, or improvement of property or  
9 for the conduct of business unless the income from such  
10 property or business would be taxable under this part.

11 (5) (a) Taxes paid within the year except the  
12 following:

- 13 (i) Taxes imposed by this part.
- 14 (ii) Taxes assessed against local benefits of a kind  
15 tending to increase the value of the property assessed.
- 16 (iii) Taxes on or according to or measured by net  
17 income or profits imposed by authority of the government of  
18 the United States.
- 19 (iv) Taxes imposed by any other state or country upon  
20 or measured by net income or profits.
- 21 (b) Taxes deductible under this part shall be  
22 construed to include taxes imposed by any county, school  
23 district, or municipality of this state.

24 (6) That portion of an energy-related investment  
25 allowed as a deduction under 15-32-103.

1 ~~(7) Fees paid in lieu of property tax on automobiles,~~  
2 ~~light trucks, motor homes, travel trailers, campers,~~  
3 ~~motorcycles, and snowmobiles."~~

4 Section 17. Section 15-50-207, MCA, is amended to  
5 read:

6 "15-50-207. Credit against other taxes -- credit for  
7 personal property taxes and fees in lieu of property tax.

8 (1) The additional license fees withheld or otherwise paid  
9 as provided herein may be used as a credit on the  
10 contractor's corporation license tax provided for in chapter  
11 31 of this title or on the contractor's income tax provided  
12 for in chapter 30, depending upon the type of tax the  
13 contractor is required to pay under the laws of the state.

14 (2) Personal property taxes or fees in lieu of  
15 property tax paid in Montana on any personal property of the  
16 contractor which is used in the business of the contractor  
17 and is located within this state may be credited against the  
18 license fees required under this chapter. However, in  
19 computing the tax credit allowed by this section against the  
20 contractor's corporation license tax or income tax, the  
21 personal property tax or fee in lieu of property tax credit  
22 against the license fees herein required shall not be  
23 considered as license fees paid for the purpose of such  
24 income tax or corporation license tax credit."

25 Section 18. Section 61-3-303, MCA, is amended to read:

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1       "61-3-303. Application for registration. (1) Every  
2 owner of a motor vehicle operated or driven upon the public  
3 highways of this state shall for each motor vehicle owned,  
4 except as herein otherwise expressly provided, file or cause  
5 to be filed in the office of the county treasurer where the  
6 motor vehicle is owned or taxable an application for  
7 registration or reregistration upon a blank form, to be  
8 prepared and furnished by the division. The application  
9 shall contain:

10       (a) name and address of owner, giving county, school  
11 district, and town or city within whose corporate limits the  
12 motor vehicle is taxable;

13       (b) name and address of the holder of any security  
14 interest in the motor vehicle;

15       (c) description of motor vehicle, including make, year  
16 model, engine or serial number, manufacturer's model or  
17 letter, gross weight, type of body, and if truck, the rated  
18 capacity;

19       (d) in case of reregistration, the license number for  
20 the preceding year; and

21       (e) such other information as the division may  
22 require.

23       (2) A person who files an application for registration  
24 or reregistration of a motor vehicle, except of a mobile  
25 home as defined in 15-1-101(1), shall upon the filing of the

1 application pay to the county treasurer:

2       (a) the registration fee, as provided in 61-3-311 and  
3 61-3-321; and

4       (b) the personal property taxes assessed ~~the new~~  
5 ~~motor-vehicle-sales-tax-against-the-vehicle-for-the-current~~  
6 ~~year-of-registration, or in-the-case-of-a-motor-home-travel~~  
7 ~~trailer--or--camper, the fee in lieu of property tax,~~  
8 ~~whichever is applicable to the vehicle being registered or~~  
9 ~~reregistered~~ for the current year of registration, unless  
10 the same shall have been theretofore paid for the year,  
11 before the application for registration or reregistration  
12 may be accepted by the county treasurer; and

13       (c) ~~the new truck sales tax if required by 61-3-502.~~

14       (3) The county treasurer may make full and complete  
15 investigation of the tax status of the vehicle. Any  
16 applicant for registration or reregistration must submit  
17 proof from the tax records of the proper county at the  
18 request of the county treasurer."

19       Section 19. Section 61-3-501, MCA, is amended to read:

20       "61-3-501. When vehicle property tax, ~~new truck tax,~~  
21 ~~and fee in lieu of tax is due.~~ (1) Property taxes, new ~~car~~  
22 ~~truck~~ taxes, and fees in lieu of tax ~~on-a-motor-home-or~~  
23 ~~travel-trailer~~ must be paid on the date of registration or  
24 reregistration of the vehicle.

25       (2) If the anniversary date for reregistration of a

1 vehicle passes while the vehicle is owned and held for sale  
 2 by a licensed new or used car dealer, property taxes or the  
 3 fee in lieu of property taxes abate on such vehicle properly  
 4 reported with the department of revenue until the vehicle is  
 5 sold and thereafter the purchaser shall pay the pro rata  
 6 balance of the taxes or the fee in lieu of tax due and owing  
 7 on the vehicle.

8 (3) In the event a vehicle's registration period is  
 9 changed under 61-3-315, all taxes, the fee in lieu of  
 10 property tax, and other fees due thereon shall be prorated  
 11 and paid from the last day of the old period until the first  
 12 day of the new period in which the vehicle shall be  
 13 registered. Thereafter taxes and other fees must be paid  
 14 from the first day of the new period for a minimum period of  
 15 1 year. When the change is to a later registration period,  
 16 taxes and fees shall be prorated and paid based on the same  
 17 tax year as the original registration period. Thereafter,  
 18 during the appropriate anniversary registration period, each  
 19 vehicle shall again register or reregister and shall pay all  
 20 taxes and fees due thereon for a 12-month period."

21 Section 20. Section 61-3-502, MCA, is amended to read:

22 "61-3-502. Sales tax on new ~~motor--vehicles trucks~~  
 23 exceeding three-quarters of a ton capacity -- exemptions.

24 (1) In consideration of the right to use the highways of the  
 25 state, there is imposed a tax upon all sales of new motor

1 ~~vehicles trucks with a manufacturer's rated capacity~~  
 2 exceeding three-quarters of a ton for which a license is  
 3 sought and an original application for title is made. The  
 4 tax shall be paid by the purchaser when he applies for his  
 5 original Montana license through the county treasurer.

6 (2) The sales tax shall be:

7 (a) 1 1/2% of the f.o.b. factory list price or f.o.b.  
 8 port-of-entry list price, during the first quarter of the  
 9 year or prorated one-twelfth for each month or part of month  
 10 for a registration period other than a calendar year or  
 11 calendar quarter;

12 (b) 1 1/8% of the list price during the second quarter  
 13 of the year;

14 (c) 3/4 of 1% during the third quarter of the year;

15 (d) 3/8 of 1% during the fourth quarter of the year.

16 (3) If the manufacturer or importer fails to furnish  
 17 the f.o.b. factory list price or f.o.b. port-of-entry list  
 18 price, the division may use published price lists.

19 (4) The proceeds from this tax shall be remitted to  
 20 the state treasurer every 30 days for credit to the state  
 21 highway account of the earmarked revenue fund.

22 (5) The new ~~vehicle truck~~ is not subject to any other  
 23 assessment, taxation, or fee in lieu of tax during the  
 24 calendar year in which the original application for title is  
 25 made.

1 (6) (a) The applicant for original registration of any  
 2 new and unused ~~motor-vehicle, truck with a manufacturer's~~  
 3 ~~rated capacity exceeding three-quarters of a ton~~ or a new  
 4 ~~motor-vehicle truck with a manufacturer's rated capacity~~  
 5 ~~exceeding three-quarters of a ton~~ furnished without charge  
 6 by a dealer to a school district for use as a traffic  
 7 education motor vehicle by a school district operating a  
 8 state-approved traffic education program within the state,  
 9 whether or not previously licensed or titled to the school  
 10 district ~~(except a mobile home as defined in 15-1-101(1))~~,  
 11 acquired by original contract after January 1 of any year,  
 12 is required, whenever the ~~vehicle truck~~ has not been  
 13 otherwise assessed, to pay the ~~motor-vehicle new truck~~ sales  
 14 tax provided by this section irrespective of whether the  
 15 ~~vehicle truck~~ was in the state of Montana on January 1 of  
 16 the year.

17 (b) No ~~motor-vehicle truck~~ may be registered or  
 18 licensed under the provisions of this subsection unless the  
 19 application for registration is accompanied by a statement  
 20 of origin to be furnished by the dealer selling the ~~vehicle~~  
 21 ~~truck~~, showing that the ~~vehicle truck~~ has not previously  
 22 been registered or owned, except as otherwise provided  
 23 herein, by any person, firm, corporation, or association  
 24 that is not a new motor vehicle dealer holding a franchise  
 25 or distribution agreement from a new ~~car truck~~ manufacturer,

1 distributor, or importer.

2 (7) (a) ~~Motor-vehicles Trucks~~ operating exclusively  
 3 for transportation of persons for hire within the limits of  
 4 incorporated cities or towns and within 15 miles from such  
 5 limits are exempt from subsection (1).

6 (b) ~~Motor-vehicles Trucks~~ brought or driven into  
 7 Montana by a nonresident, migratory, bona fide agricultural  
 8 worker temporarily employed in agricultural work in this  
 9 state where those ~~motor-vehicles trucks~~ are used exclusively  
 10 for transportation of agricultural workers are also exempt  
 11 from subsection (1).

12 (c) ~~Vehicles Trucks~~ lawfully displaying a licensed  
 13 dealer's plate as provided in 61-4-103 are exempt from  
 14 subsection (1) when moving to or from a dealer's place of  
 15 business when unloaded or loaded with dealer's property  
 16 only, and in the case of ~~vehicles trucks~~ having a gross  
 17 loaded weight of less than 24,000 pounds, while being  
 18 demonstrated in the course of the dealer's business."

19 Section 21. Section 61-3-503, MCA, is amended to read:

20 "61-3-503. Assessment. (1) A person who files an  
 21 application for registration or reregistration of a motor  
 22 vehicle, other than a motor ~~home--travel--trailer~~ ~~vehicle~~  
 23 ~~subject to a fee in lieu of property tax~~ or a mobile home as  
 24 defined in 15-1-101(1), shall before filing such application  
 25 with the county treasurer submit the application to the

1 county assessor. The county assessor shall enter on the  
2 application in a space to be provided for that purpose the  
3 market value and taxable value of the vehicle for the year  
4 for which the application for registration is made.

5 (2) Except as provided in subsection (3), motor  
6 vehicles, other than motor ~~homes--travel--trailers--or~~  
7 ~~vehicles subject to the fee in lieu of property tax and~~  
8 mobile homes as defined in 15-1-101(1), are assessed for  
9 taxes on January 1 in each year irrespective of the time  
10 fixed by law for the assessment of other classes of personal  
11 property and irrespective of whether the levy and tax may be  
12 a lien upon real property within the state. In no event may  
13 any motor vehicle be subject to assessment, levy, and  
14 taxation more than once in each year.

15 (3) Vehicles subject to the provisions of 61-3-313  
16 through 61-3-316 shall be assessed as of the first day of  
17 the registration period, and a lien for taxes and fees due  
18 thereon shall occur on the anniversary date of the  
19 registration and shall continue until such fees and taxes  
20 have been paid."

21 Section 22. Section 61-3-504, MCA, is amended to read:

22 "61-3-504. Computation of tax. The amount of taxes on  
23 a motor vehicle, other than ~~a motor home, travel trailer, or~~  
24 ~~a motor vehicle subject to the fee in lieu of property tax~~  
25 ~~and mobile home~~ homes as defined in 15-1-101(1), is computed

1 and determined by the county treasurer on the basis of the  
2 levy of the year preceding the current year of application  
3 for registration or reregistration. The determination is  
4 entered on the application form in a space provided  
5 therefor."

6 Section 23. Section 61-3-506, MCA, is amended to read:

7 "61-3-506. Rules. (1) The department of revenue shall  
8 adopt rules for the payment of property taxes and the  
9 department of highways shall adopt rules for the payment of  
10 new ~~car truck~~ taxes under the provisions of 61-3-313 through  
11 61-3-316 and 61-3-501. The department of revenue may adopt  
12 regulations for the proration of taxes for the  
13 implementation and administration of 61-3-313 through  
14 61-3-316 and 61-3-501, but shall specifically provide that  
15 new ~~car truck~~ taxes shall be for a full registration period  
16 of not less than 11 months and not more than 13 months.

17 ~~(2) The department of revenue shall adopt rules for~~  
18 ~~the payment of fees in lieu of property tax for automobiles,~~  
19 ~~light trucks, motor homes, travel trailers, campers, and~~  
20 ~~motorcycles."~~

21 Section 24. Section 61-3-509, MCA, is amended to read:

22 "61-3-509. Disposition of taxes and fees in lieu of  
23 tax. (1) The county treasurer shall credit all taxes on  
24 ~~motor--vehicles~~ and fees in lieu of tax on ~~motor-homes-and~~  
25 ~~travel-trailers~~ collected on motor vehicles to a motor



1 vehicle suspense fund~~y~~~~end~~.

2 ~~(2) at~~ At some time between March 1 and March 10 of  
3 each year and every 60 days thereafter, the county treasurer  
4 shall distribute the money in the motor vehicle suspense  
5 fund in the relative proportions required by the levies for  
6 state, county, school district, and municipal purposes in  
7 the same manner as other personal property taxes are  
8 distributed."

9 Section 25. Section 61-3-521, MCA, is amended to read:

10 "61-3-521. Fee in lieu of tax for certain vehicles.

11 (1) There is a fee in lieu of property tax imposed on  
12 ~~automobiles, light trucks, motor homes, travel trailers, and~~  
13 ~~campers, and motorcycles.~~ The fee is in addition to annual  
14 registration fees.

15 (2) The fee imposed by subsection (1) need not be paid  
16 by a dealer for vehicles that constitute inventory of the  
17 dealership."

18 Section 26. Section 61-3-701, MCA, is amended to read:

19 "61-3-701. Foreign vehicles used in gainful occupation  
20 to be registered -- reciprocity. (1) Before any foreign  
21 licensed motor vehicle may be operated on the highways of  
22 this state for hire, compensation, or profit or before the  
23 owner ~~and/or~~ ~~or~~ user thereof uses the vehicle if such owner  
24 ~~and/or~~ ~~or~~ user is engaged in gainful occupation or business  
25 enterprise in the state, including highway work, the owner

1 of the vehicle shall make application to a county treasurer  
2 for registration upon an application form furnished by the  
3 division. Upon satisfactory evidence of ownership submitted  
4 to the county treasurer and the payment of property taxes as  
5 required by 15-8-201, ~~through--15-8-203~~ 15-8-202, or  
6 15-24-301 ~~or the fee in lieu of property tax as required by~~  
7 ~~[section 25], whichever is applicable to the vehicle being~~  
8 ~~registered,~~ the treasurer shall accept the application for  
9 registration and shall collect the regular license fee  
10 required for the vehicle.

11 (2) The treasurer shall thereupon issue to the  
12 applicant a copy of the application entitled "Owner's  
13 Certificate of Registration and Tax Receipt" and forward a  
14 duplicate copy of the certificate to the division. The  
15 treasurer shall at the same time issue to the applicant the  
16 proper license plates or other identification markers, which  
17 shall at all times be displayed upon the vehicle when  
18 operated or driven upon roads and highways of this state  
19 during the period of the life of the license.

20 (3) The registration receipt ~~shall~~ ~~does~~ not constitute  
21 evidence of ownership but shall be used only for  
22 registration purposes. No Montana certificate of ownership  
23 ~~shall~~ ~~may~~ be issued for this type of registration.

24 (4) This section is not applicable to any vehicle  
25 covered by a valid and existing reciprocal agreement or

LC 0585/01

1 declaration entered into under the provisions of the laws of  
2 Montana."

-End-

HB 86

## STATE OF MONTANA

REQUEST NO. \_\_\_\_\_

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, 19 81, there is hereby submitted a Fiscal Note for House Bill 86 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 proposal would replace the present ad valorem tax on automobiles, light trucks and motorcycles with a system of fees based on the age and weight of the vehicle. It also removes the new car sales tax for automobiles and light trucks.

TECHNIQUE OF ESTIMATION

The data from the 1980 plate year Motor Vehicle Division computer tapes is used in deriving these estimates. About 12.7% of the records in the data file are flawed in a way which renders them unusable for computation purposes. Consequently, the estimates are made based on the 87.3% of the data which is usable and the results are expanded to the whole file under the assumption that the 87.3% is a representative sample.

This process yields the following results for the 1980 plate year:

	<u>Tax Paid</u>	<u>Proposed Fee in lieu of tax</u>	<u>Increase (decrease)</u>
Automobiles under 3000 lb.	\$ 6,448,833	\$ 6,035,038	(\$ 413,795)
Automobiles 3000 lbs. and over	\$13,816,009	\$14,632,680	\$ 816,671
Light trucks	\$ 8,516,322	\$ 9,739,285	\$1,222,963
Personal plates	\$ 1,036,565	\$ 1,135,080	\$ 98,515
Motorcycles	\$ 61,861	\$ 54,051	(\$7,810)
Net change			\$1,716,544

The total tax paid during the 1980 plate year was \$29,817,729. Thus, this fee schedule would result in approximately a 5.76% increase in revenue to local government units statewide from automobiles and light trucks.

IMPACT ON STATE REVENUE

The proposal removes the sales tax on new automobiles and light trucks. The revenue from this source is earmarked for the Department of Highways. For plate year 1980 collections of new car sales tax amounted to \$4.3 M - \$4.5 M (exact figures are unavailable since it is unknown how much of the \$4.747 M actually collected in FY80 was attributable to automobiles and light trucks.) Under the allocation of section 24 of the proposal, the fund generated by the 6 mill university would receive slightly more revenue than the present ad valorem tax.

*David M Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

(continued on page two)

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STATE OF MONTANA

REQUEST NO. \_\_\_\_\_

FISCAL NOTE

Form BD-15

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In compliance with a written request received January 13, 19 81, there is hereby submitted a Fiscal Note for House Bill 86 (page 2) 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.

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(continued)

EFFECT ON LOCAL GOVERNMENT

It should be noted that under the proposal, as written, local jurisdictions will lose the taxable value associated with automobiles and light trucks. Since Jurisdictional bonding limits and some county salaries are set in terms of taxable value, this loss of taxable value could place some governmental units in excess of the bonding limits and could change the salaries of certain county officials.

An addendum showing the county effect of this proposal is attached.

PREPARED BY THE DEPARTMENT OF REVENUE

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

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IMPACT OF FEE SYSTEM  
APPLIED TO 1980 PLATE YEAR DATA

COUNTY	# OF VEHICLES	\$ COUNTY TAX	\$ UNIFORM FEE	INCREASE (DECREASE) IN REVENUE
Silver Bow	21,484	1,803,175	1,470,069	(333,106)
Cascade	49,101	3,698,285	3,280,918	(417,370)
Yellowstone	64,361	4,679,057	4,931,331	252,274
Missoula	43,746	3,030,741	3,009,871	(20,870)
Lewis & Clark	26,204	1,976,865	1,835,074	(141,791)
Gallatin	24,752	1,778,438	1,694,115	(84,323)
Flathead	32,635	2,039,345	2,243,421	204,076
Fergus	7,818	490,220	496,623	6,403
Powder River	1,586	81,825	154,085	72,260
Carbon	3,970	230,972	268,963	37,991
Phillips	2,868	152,094	220,054	67,960
Hill	6,586	472,681	522,554	49,873
Ravalli	13,659	656,037	855,946	199,909
Custer	7,804	584,256	534,724	(49,532)
Lake	11,280	589,713	750,226	160,513
Dawson	7,048	509,827	536,901	27,074
Roosevelt	4,158	306,305	368,527	62,222
Beaverhead	3,700	225,160	283,538	58,378
Chouteau	3,115	178,175	247,298	69,123
Valley	4,800	327,289	367,650	40,361
Toole	3,692	232,092	270,429	38,337
Big Horn	5,363	257,518	475,965	218,447
Musselshell	2,376	121,629	165,585	43,956
Blaine	2,715	171,020	231,039	60,019
Madison	3,032	171,604	226,617	55,013
Pondera	2,554	150,343	192,192	41,849
Richland	6,429	360,738	568,376	207,638
Powell	3,768	223,502	257,704	34,202
Rosebud	4,270	203,810	355,349	151,539
Deer Lodge	5,879	569,473	380,702	(188,771)
Teton	3,776	217,897	252,704	34,807
Stillwater	2,956	165,404	208,606	43,202
Treasure	537	28,272	44,539	16,267
Sheridan	3,329	182,736	268,843	86,107
Sanders	3,934	198,926	270,721	71,795
Judith Basin	1,758	94,151	125,627	31,476
Daniels	1,089	71,925	87,904	15,979
Glacier	5,557	327,780	458,658	130,878
Fallon	2,121	116,480	179,398	62,918
Sweetgrass	1,931	103,374	125,501	22,127
McCone	999	60,946	82,005	21,059
Carter	635	43,169	55,294	12,125
Broadwater	1,732	99,823	132,677	32,854
Wheatland	139	54,988	60,970	5,982
Prairie	944	54,109	66,897	12,788
Granite	1,704	100,489	115,754	15,265
Meagher	1,326	76,797	90,893	14,096
Liberty	1,449	83,154	122,781	39,627
Park	8,646	539,305	570,925	31,620
Garfield	700	36,133	50,987	14,854
Jefferson	3,516	236,793	240,631	3,838
Wibaux	683	36,338	53,152	16,814
Golden Valley	480	25,479	36,160	10,681
Mineral	1,624	119,556	104,701	(14,855)
Petroleum	234	10,879	18,321	7,442
Lincoln	7,563	388,137	518,150	130,013

The numbers and amounts appearing in this table were obtained by expanding a sample from the motor vehicle data file. The reader is cautioned that they will not coincide precisely with actual numbers of vehicles and tax collections data obtained from local sources. This information is presented for the purpose of allowing comparison between the present system and the proposed system and is valid for this purpose only.