HOUSE BILL NO. 92

INTRODUCED BY ASAY

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Taxation.
January 7, 1981	Fiscal note requested.
January 16, 1981	Fiscal note returned.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
	Statement of intent attached.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 94; Noes, 3. Transmitted to Senate.

IN THE SENATE

February 18, 1981	Introduced and referred to Committee on Taxation.
March 31, 1981	Committee recommend bill be concurred in. Report adopted.
April 2, 1981	Second reading, concurred in.
April 4, 1981	Third reading, concurred in. Ayes, 39; Noes, 8.

IN THE HOUSE

April 6, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 92

INTRODUCED BY ASAY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE DEPARTMENT OF REVENUE TO MODIFY THE PERCENTAGE MULTIPLIER USED IN CONVERTING THE MARKET VALUE OF RAILROAD PROPERTY TO TAXABLE VALUE IN ORDER TO ACHIEVE COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL RAILROAD REVITALIZATION AND REGULATORY REFORM ACT; AMENDING SECTIONS 15-6-141 AND 15-23-202, MCA."

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

Section 1. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class seven.

(2) Class eleven property is taxed as follows:

(a) Property described in subsection (1)(a) and (b) is taxed at 12% of market value.

(b) ~~Property~~ Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at 15% of market value."

Section 2. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad

property, the department may modify the percentage multiplier provided for in 15-6-141 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

-End-

STATE OF MONTANA

REQUEST NO. 8-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 19 81, there is hereby submitted a Fiscal Note for House Bill 92 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

Allowing the Department of Revenue to tax railroad property at a rate no higher than other commercial property.

Background

The U. S. Congress passed the Railroad Revitalization and Regulatory Reform Act (4R Act) in 1976. A section of that Act requires that railroad property be taxed at no higher rate than other commercial property. In Montana, an aggregate value of all the property of a given railroad is determined by a unit approach. This value is allocated to the various taxing jurisdiction, on the basis of the number of miles of track in each. The taxable value of such property is statutorily set at 15% (16% in 1979) of the assessed value. Meanwhile, the property of other commercial enterprises is valued by local assessors. The taxable value of such property is determined by the class into which it falls; classification percentages range from 8.55% (real property and improvements) to 16% (radio and television equipment). Thus, there is no one fixed percentage at which commercial property is taxed.

In 1979, Burlington Northern Railroad sued the Department of Revenue, alleging that its property in Montana was taxed at a higher rate than other commercial properties in the state in direct violation of the 4R Act. The lawsuit was ultimately settled by a federal court order requiring the state to use a classification factor of 10.5%.

Since Montana statute requires the use of a 15% classification factor, it was used in computing the taxable value of railroad property for 1980. Burlington Northern Railroad has once again brought suit alleging, among other issues, that the 15% classification factor is too high in violation of the 4R Act.

Assumptions

1. The value of all railroad property in Montana for 1980 was $263.4 million. For the sake of illustration, it will be assumed to remain at that level for 1982 and 1983.

2. The weighted average classification percentage for commercial property as determined by the Department of Revenue under this bill would be between 10% and 10.5%.

3. The average mill levy applied to railroad property statewide is 220 mills.

4. The state will continue to levy 6 mills for support of the University System.

5. The taxable value of the state will be 2.083 billion in 1981 and 2.263 billion in FY 1982. These translate into property tax collected.

David M Lewis
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1-15-81

Fiscal Note

Effect on county or other local revenue or expenditures

FY 1982		FY 1983	
$263.4 M x .15 = $39.51 M		$263.4 M x .15 = $39.51 M	
263.4 M x .10 = 26.34 M		263.4 M x .105 = 27.66 M	
Loss in taxable value	$13.17 M	Loss in taxable value	$11.85 M
Loss in tax at 220 mills	$ 2.90 M	Loss in tax at 220 mills	$ 2.61 M

Loss to local governments could range between $2.61 M and $2.90 M each year of the biennium. This loss would be locally heavy in jurisdictions which either 1) have a tax base which contains a large share of railroad property or 2) have mill levies substantially above the 220 mill average assumed here.

STATEMENT OF INTENT

HOUSE BILL 92

HOUSE COMMITTEE ON TAXATION

The intent of this bill is to allow the department to comply with the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended. This act places restrictions on the property taxation of railroads by state and local governments. Basically, the local taxing jurisdictions may not tax railroads at a higher tax rate than that levied on commercial and industrial property in general (49 USC section 11503). This bill provides a mechanism to the department of revenue to adjust the percentage multiplier for converting market value to taxable value for railroad property. It is intended that the department may adjust the multiplier, if necessary, to achieve compliance with the federal requirements.

In making the adjustment the department may take into account both:

(1) differing percentages, as provided by statute, between various classes of property; and

(2) differences in the determination of market value between commercial and industrial property on one hand and railroad property on the other, if any such differences exist.

The language chosen is selected to afford the department reasonable latitude in developing a method of adjusting the multiplier.

Approved by Committee
on Taxation

HOUSE BILL NO. 92

INTRODUCED BY ASAY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE DEPARTMENT OF REVENUE TO MODIFY THE PERCENTAGE MULTIPLIER USED IN CONVERTING THE MARKET VALUE OF RAILROAD PROPERTY TO TAXABLE VALUE IN ORDER TO ACHIEVE COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL RAILROAD REVITALIZATION AND REGULATORY REFORM ACT; AMENDING SECTIONS 15-6-141 AND 15-23-202, MCA; PROVIDING AN APPLICABILITY DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class seven.

(2) Class eleven property is taxed as follows:

(a) Property described in subsection (1)(a) and (b) is taxed at 12% of market value.

(b) ~~Property~~ Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at 15% of market value."

Section 2. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department may modify the percentage multiplier provided for in 15-6-141 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

SECTION 3. EFFECTIVE DATE — APPLICABILITY. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1980.

-End-

STATEMENT OF INTENT

HOUSE BILL 92

HOUSE COMMITTEE ON TAXATION

The intent of this bill is to allow the department to comply with the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended. This act places restrictions on the property taxation of railroads by state and local governments. Basically, the local taxing jurisdictions may not tax railroads at a higher tax rate than that levied on commercial and industrial property in general (49 USC section 11503). This bill provides a mechanism to the department of revenue to adjust the percentage multiplier for converting market value to taxable value for railroad property. It is intended that the department may adjust the multiplier, if necessary, to achieve compliance with the federal requirements.

In making the adjustment the department may take into account both:

(1) differing percentages, as provided by statute, between various classes of property; and

(2) differences in the determination of market value between commercial and industrial property on one hand and railroad property on the other, if any such differences exist.

The language chosen is selected to afford the department reasonable latitude in developing a method of adjusting the multiplier.

HOUSE BILL NO. 92

INTRODUCED BY ASAY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE DEPARTMENT OF REVENUE TO MODIFY THE PERCENTAGE MULTIPLIER USED IN CONVERTING THE MARKET VALUE OF RAILROAD PROPERTY TO TAXABLE VALUE IN ORDER TO ACHIEVE COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL RAILROAD REVITALIZATION AND REGULATORY REFORM ACT; AMENDING SECTIONS 15-6-141 AND 15-23-202, MCA; PROVIDING AN APPLICABILITY DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class seven.

(2) Class eleven property is taxed as follows:

(a) Property described in subsection (1)(a) and (b) is taxed at 12% of market value.

(b) ~~Property~~ Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at 15% of market value."

Section 2. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department may modify the percentage multiplier provided for in 15-6-141 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

SECTION 3. EFFECTIVE DATE -- APPLICABILITY. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1980.

-End-

STATEMENT OF INTENT

HOUSE BILL 92

HOUSE COMMITTEE ON TAXATION

The intent of this bill is to allow the department to comply with the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended. This act places restrictions on the property taxation of railroads by state and local governments. Basically, the local taxing jurisdictions may not tax railroads at a higher tax rate than that levied on commercial and industrial property in general (49 USC section 11503). This bill provides a mechanism to the department of revenue to adjust the percentage multiplier for converting market value to taxable value for railroad property. It is intended that the department may adjust the multiplier, if necessary, to achieve compliance with the federal requirements.

In making the adjustment the department may take into account both:

(1) differing percentages, as provided by statute, between various classes of property; and

(2) differences in the determination of market value between commercial and industrial property on one hand and railroad property on the other, if any such differences exist.

The language chosen is selected to afford the department reasonable latitude in developing a method of adjusting the multiplier.

HOUSE BILL NO. 92

INTRODUCED BY ASAY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE DEPARTMENT OF REVENUE TO MODIFY THE PERCENTAGE MULTIPLIER USED IN CONVERTING THE MARKET VALUE OF RAILROAD PROPERTY TO TAXABLE VALUE IN ORDER TO ACHIEVE COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL RAILROAD REVITALIZATION AND REGULATORY REFORM ACT; AMENDING SECTIONS 15-6-141 AND 15-23-202, MCA; PROVIDING AN APPLICABILITY DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class seven.

(2) Class eleven property is taxed as follows:

(a) Property described in subsection (1)(a) and (b) is taxed at 12% of market value.

(b) ~~Property~~ Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at 15% of market value."

Section 2. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

REFERENCE BILL

(2) In determining the taxable value of railroad property, the department may modify the percentage multiplier provided for in 15-6-141 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

SECTION 3. EFFECTIVE DATE -- APPLICABILITY. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1980.

-End-