

HOUSE BILL NO. 33

Introduced: 01/03/83

Referred to Committee on Taxation: 01/03/83

Hearing: 1/5/83

Report 02/02/83, Do Pass, As Amended

2nd Reading: 02/04/83, Do Pass, As Amended

3rd Reading: 02/08/83, Do Pass

Transmitted to Senate: 2/8/83

Referred to Committee on Taxation: 02/09/83

Hearing: 3/4/83

Report: 3/7/83, Be Not Concurred In. Report Adopted.

Bill Killed

1 HOUSE BILL NO. 33
2 INTRODUCED BY KITSELMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE PRESENT
5 SYSTEM OF TAXATION OF MOTORCYCLES WITH A FEE SYSTEM;
6 AMENDING SECTIONS 15-6-138, 15-6-201, 15-8-201, 15-8-202,
7 15-30-121, 15-31-114, 61-3-303, 61-3-501 THROUGH 61-3-504,
8 61-3-509, 61-3-534, AND 61-3-701, MCA; AND PROVIDING AN
9 EFFECTIVE DATE AND AN APPLICABILITY CLAUSE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Motorcycle license fee. (1)
13 Except as provided in subsection (2), motorcycles are
14 subject to a license fee. This fee is imposed in lieu of a
15 property tax and is in addition to the tax on new motor
16 vehicles.

17 (2) (a) Motorcycles that meet the description of
18 property exempt from taxation under the provisions of
19 subsection (a), (c), (d), or (e) of 15-6-201(1) or
20 15-6-203(2) are exempt from the fee imposed in subsection
21 (1).

22 (b) A dealer for motorcycles is not required to pay
23 the license fee for motorcycles held for sale or used in the
24 dealer's business in selling or demonstrating the
25 motorcycles. Motorcycles exempt under this subsection may

1 not be operated for the personal use of the dealer, his
2 family, or his employees or for any use not necessary in the
3 pursuit of business.

4 NEW SECTION. Section 2. Schedule of fees for
5 motorcycles. (1) The following schedule based on motorcycle
6 age and size shall be used to determine the fee imposed by
7 [section 1]:

8	<u>Motorcycle Age</u>		<u>Motorcycle Size</u>	
9			1,000cc	
10			or less	
11		500cc	but more	More than
12		or less	than 500cc	1,000cc
13	Less than or equal			
14	to 2 years	\$25	\$35	\$45
15	More than 2 years			
16	but less than or			
17	equal to 4 years	15	25	35
18	More than 4 years	5	15	25

19 (2) "Motorcycle age" means the difference between the
20 calendar year of the first day of the registration period
21 and the manufacturer's designated model year.

22 Section 3. Section 15-6-138, MCA, is amended to read:
23 "15-6-138. Class eight property -- description --
24 taxable percentage. (1) Class eight property includes:

25 (a) all agricultural implements and equipment;

INTRODUCED BILL

1 (b) all mining machinery, fixtures, equipment, tools,
 2 and supplies except:
 3 (i) those included in class five; and
 4 (ii) coal and ore haulers;
 5 (c) all manufacturing machinery, fixtures, equipment,
 6 tools, and supplies except those included in class five;
 7 ~~(d) motorcycles;~~
 8 ~~(e)(d)~~ watercraft;
 9 ~~(f)(e)~~ light utility and boat trailers;
 10 ~~(g)(f)~~ aircraft;
 11 ~~(h)(g)~~ all-terrain vehicles;
 12 ~~(i)(h)~~ harness, saddlery, and other tack equipment;
 13 and
 14 ~~(j)(i)~~ all other machinery except that specifically
 15 included in another class.
 16 (2) Class eight property is taxed at 11% of its market
 17 value."
 18 Section 4. Section 15-6-201, MCA, is amended to read:
 19 "15-6-201. (Temporary) Exempt categories. (1) The
 20 following categories of property are exempt from taxation:
 21 (a) the property of:
 22 (i) the United States, the state, counties, cities,
 23 towns, school districts;
 24 (ii) irrigation districts organized under the laws of
 25 Montana and not operating for profit;

1 (iii) municipal corporations; and
 2 (iv) public libraries;
 3 (b) buildings, with land they occupy and furnishings
 4 therein, owned by a church and used for actual religious
 5 worship or for residences of the clergy, together with
 6 adjacent land reasonably necessary for convenient use of
 7 such buildings;
 8 (c) property used exclusively for agricultural and
 9 horticultural societies, for educational purposes, and for
 10 hospitals;
 11 (d) property that meets the following conditions:
 12 (i) is owned and held by any association or
 13 corporation organized under Title 35, chapter 2, 3, 20, or
 14 21;
 15 (ii) is devoted exclusively to use in connection with a
 16 cemetery or cemeteries for which a permanent care and
 17 improvement fund has been established as provided for in
 18 Title 35, chapter 20, part 3; and
 19 (iii) is not maintained and operated for private or
 20 corporate profit;
 21 (e) institutions of purely public charity;
 22 (f) evidence of debt secured by mortgages of record
 23 upon real or personal property in the state of Montana;
 24 (g) public art galleries and public observatories not
 25 used or held for private or corporate profit;

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

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

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

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less; and

(l) motorcycles.

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

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

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined

in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

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

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

Section 5. Section 15-8-201, MCA, is amended to read:

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

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

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

(b) automobiles and trucks having a rated capacity of

1 three-quarters of a ton or less;

2 (c) ~~motorcycles~~, motor homes, and travel trailers

3 subject to a fee in lieu of property tax;

4 (d) livestock;

5 (e) property defined in 61-1-104(2) as "special mobile

6 equipment" that is subject to assessment for personal

7 property taxes on the date that application is made for a

8 special mobile equipment plate; and

9 (f) mobile homes held by a distributor or dealer of

10 mobile homes as a part of his stock in trade.

11 (3) Credits must be assessed as provided in

12 15-1-101(1)~~(c)~~(d)." "

13 Section 6. Section 15-8-202, MCA, is amended to read:

14 "15-8-202. Motor vehicle assessment. (1) (a) The

15 department or its agent must, in each year, ascertain and

16 assess all motor vehicles other than automobiles, trucks

17 having a rated capacity of three-quarters of a ton or less,

18 ~~motorcycles~~, motor homes, travel trailers, or mobile homes

19 in each county subject to taxation as of January 1 or as of

20 the anniversary registration date of those vehicles subject

21 to 61-3-313 through 61-3-316 and 61-3-501. The assessment

22 for all motor vehicles will be made using the market value

23 as of January 1 of the year of assessment of the vehicle as

24 contained in the most recent volume of the Mountain States

25 Edition of the National Automobile Dealers Association

1 Official Used Car Guide. The motor vehicles shall be

2 assessed in each year to the persons by whom owned or

3 claimed or in whose possession or control they were at

4 midnight of January 1 or the anniversary registration date

5 thereof, whichever is applicable.

6 (b) No tax may be assessed against motor vehicles

7 subject to taxation that constitute inventory of motor

8 vehicle dealers as of January 1. These vehicles and all

9 other motor vehicles subject to taxation brought into the

10 state subsequent to January 1 as motor vehicle dealers'

11 inventories shall be assessed to their respective purchasers

12 as of the dates the vehicles are registered by the

13 purchasers.

14 (c) "Purchasers" includes dealers who apply for

15 registration or reregistration of motor vehicles, except as

16 otherwise provided by 61-3-502.

17 (d) Goods, wares, and merchandise of motor vehicle

18 dealers, other than new motor vehicles and new mobile homes,

19 shall be assessed at market value as of January 1.

20 (2) In all cases where taxes or a fee in lieu of tax

21 were required to be paid, the applicant for registration or

22 reregistration of a motor vehicle, other than a mobile home,

23 is not relieved of the duty of paying taxes or the fee in

24 lieu of tax if the taxes or fees have not been paid by a

25 prior applicant or owner."

1 Section 7. Section 15-30-121, MCA, is amended to read:

2 "15-30-121. Deductions allowed in computing net
3 income. In computing net income, there are allowed as
4 deductions:

5 (1) the items referred to in sections 161 and 211 of
6 the Internal Revenue Code of 1954, or as sections 161 and
7 211 shall be labeled or amended, subject to the following
8 exceptions which are not deductible:

9 (a) items provided for in 15-30-123;

10 (b) state income tax paid;

11 (2) federal income tax paid within the taxable year;

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

24 (4) in the case of an individual, political
25 contributions determined in accordance with the provisions

1 of section 218(a) and (b) of the Internal Revenue Code that
2 were in effect for the taxable year ended December 31, 1978;

3 (5) that portion of expenses for organic fertilizer
4 allowed as a deduction under 15-32-303 which was not
5 otherwise deducted in computing taxable income;

6 (6) light vehicle license fees, as provided by
7 61-3-532, paid during the taxable year;

8 ~~(7) motorcycle fees in lieu of tax, as provided by~~
9 ~~[section 1], paid during the taxable year."~~

10 Section 8. Section 15-31-114, MCA, is amended to read:

11 "15-31-114. Deductions allowed in computing income. In
12 computing the net income, the following deductions shall be
13 allowed from the gross income received by such corporation
14 within the year from all sources:

15 (1) All the ordinary and necessary expenses paid or
16 incurred during the taxable year in the maintenance and
17 operation of its business and properties, including
18 reasonable allowance for salaries for personal services
19 actually rendered, subject to the limitation hereinafter
20 contained, rentals or other payments required to be made as
21 a condition to the continued use or possession of property
22 to which the corporation has not taken or is not taking
23 title or in which it has no equity. No deduction shall be
24 allowed for salaries paid upon which the recipient thereof
25 has not paid Montana state income tax; provided, however,

1 that where domestic corporations are taxed on income derived
2 from without the state, salaries of officers paid in
3 connection with securing such income shall be deductible.

4 (2) (a) All losses actually sustained and charged off
5 within the year and not compensated by insurance or
6 otherwise, including a reasonable allowance for the wear and
7 tear and obsolescence of property used in the trade or
8 business, such allowance to be determined according to the
9 provisions of section 167 of the Internal Revenue Code in
10 effect with respect to the taxable year. All elections for
11 depreciation shall be the same as the elections made for
12 federal income tax purposes. No deduction shall be allowed
13 for any amount paid out for any buildings, permanent
14 improvements, or betterments made to increase the value of
15 any property or estate, and no deduction shall be made for
16 any amount of expense of restoring property or making good
17 the exhaustion thereof for which an allowance is or has been
18 made.

19 (b) (i) There shall be allowed as a deduction for the
20 taxable period a net operating loss deduction determined
21 according to the provisions of this subsection. The net
22 operating loss deduction is the aggregate of net operating
23 loss carryovers to such taxable period plus the net
24 operating loss carrybacks to such taxable period. The term
25 "net operating loss" means the excess of the deductions

1 allowed by this section, 15-31-114, over the gross income,
2 with the modifications specified in (ii) of this subsection.
3 If for any taxable period beginning after December 31, 1970,
4 a net operating loss is sustained, such loss shall be a net
5 operating loss carryback to each of the three taxable
6 periods preceding the taxable period of such loss and shall
7 be a net operating loss carryover to each of the five
8 taxable periods following the taxable period of such loss. A
9 net operating loss for any taxable period ending after
10 December 31, 1975, in addition to being a net operating loss
11 carryback to each of the three preceding taxable periods,
12 shall be a net operating loss carryover to each of the seven
13 taxable periods following the taxable period of such loss.
14 The portion of such loss which shall be carried to each of
15 the other taxable years shall be the excess, if any, of the
16 amount of such loss over the sum of the net income for each
17 of the prior taxable periods to which such loss was carried.
18 For purposes of the preceding sentence, the net income for
19 such prior taxable period shall be computed with the
20 modifications specified in (ii)(B) of this subsection and by
21 determining the amount of the net operating loss deduction
22 without regard to the net operating loss for the loss period
23 or any taxable period thereafter, and the net income so
24 computed shall not be considered to be less than zero.

25 (ii) The modifications referred to in (i) of this

1 subsection shall be as follows:

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

3 (B) The deduction for depletion shall not exceed the
4 amount which would be allowable if computed under the cost
5 method.

6 (C) Any net operating loss carried over to any taxable
7 years beginning after December 31, 1970, must be calculated
8 under the provisions of this section effective for the
9 taxable year for which the return claiming the net operating
10 loss carryover is filed.

11 (iii) A net operating loss deduction shall be allowed
12 only with regard to losses attributable to the business
13 carried on within the state of Montana.

14 (iv) In the case of a merger of corporations, the
15 surviving corporation shall not be allowed a net operating
16 loss deduction for net operating losses sustained by the
17 merged corporations prior to the date of merger. In the case
18 of a consolidation of corporations, the new corporate entity
19 shall not be allowed a deduction for net operating losses
20 sustained by the consolidated corporations prior to the date
21 of consolidation.

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

25 (vi) The net operating loss deduction shall not be

1 allowed with respect to taxable periods which ended on or
2 before December 31, 1970, but shall be allowed only with
3 respect to taxable periods beginning on or after January 1,
4 1971.

5 (3) In the case of mines, other natural deposits, oil
6 and gas wells, and timber, a reasonable allowance for
7 depletion and for depreciation of improvements; such
8 reasonable allowance to be determined according to the
9 provisions of the Internal Revenue Code in effect for the
10 taxable year. All elections made under the Internal Revenue
11 Code with respect to capitalizing or expensing exploration
12 and development costs and intangible drilling expenses for
13 corporation license tax purposes shall be the same as the
14 elections made for federal income tax purposes.

15 (4) The amount of interest paid within the year on its
16 indebtedness incurred in the operation of the business from
17 which its income is derived; but no interest shall be
18 allowed as a deduction if paid on an indebtedness created
19 for the purchase, maintenance, or improvement of property or
20 for the conduct of business unless the income from such
21 property or business would be taxable under this part.

22 (5) (a) Taxes paid within the year except the
23 following:

24 (i) Taxes imposed by this part.

25 (ii) Taxes assessed against local benefits of a kind

1 tending to increase the value of the property assessed.

2 (iii) Taxes on or according to or measured by net
3 income or profits imposed by authority of the government of
4 the United States.

5 (iv) Taxes imposed by any other state or country upon
6 or measured by net income or profits.

7 (b) Taxes deductible under this part shall be
8 construed to include taxes imposed by any county, school
9 district, or municipality of this state.

10 (6) Light vehicle license fees, as provided by
11 61-3-532, and fees in lieu of tax for motorcycles, as
12 provided by [section 1], paid within the year.

13 (7) That portion of an energy-related investment
14 allowed as a deduction under 15-32-103.

15 (8) (a) Except as provided in subsection (b),
16 charitable contributions and gifts that qualify for
17 deduction under section 170 of the Internal Revenue Code, as
18 amended.

19 (b) The public service commission shall not allow in
20 the rate base of a regulated corporation the inclusion of
21 contributions made under this subsection."

22 Section 9. Section 61-3-303, MCA, is amended to read:

23 "61-3-303. Application for registration. (1) Every
24 owner of a motor vehicle operated or driven upon the public
25 highways of this state shall for each motor vehicle owned,

1 except as herein otherwise expressly provided, file or cause
2 to be filed in the office of the county treasurer where the
3 motor vehicle is owned or taxable an application for
4 registration or reregistration upon a blank form to be
5 prepared and furnished by the division. The application
6 shall contain:

7 (a) name and address of owner, giving county, school
8 district, and town or city within whose corporate limits the
9 motor vehicle is taxable, if taxable, or within whose
10 corporate limits the owner's residence is located if the
11 motor vehicle is not taxable;

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

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

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

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

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

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

(b) unless it has been previously paid:

(i) the personal property taxes assessed;

(ii) the new motor vehicle sales tax against the vehicle for the current year of registration and/or the license fee imposed by 61-3-532 or [section 1]; or

(iii) in the case of a motor home, travel trailer, or camper, the fee in lieu of property tax for the current year of registration.

(3) The application may not be accepted by the county treasurer unless the payments required by subsection (2) accompany the application.

(4) The county treasurer may make full and complete investigation of the tax status of the vehicle. Any applicant for registration or reregistration must submit proof from the tax or other appropriate records of the proper county at the request of the county treasurer."

Section 10. Section 61-3-501, MCA, is amended to read:

"61-3-501. When vehicle taxes and fees are due. (1) Property taxes, new car taxes, light vehicle license fees, and fees in lieu of tax on a ~~motorcycle~~ motor home, or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a

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

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

Section 11. Section 61-3-502, MCA, is amended to read:

"61-3-502. Sales tax on new motor vehicles -- exemptions. (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles for which a license is sought and an

original application for title is made. The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) The sales tax shall be:

(a) $1\frac{1}{2}\%$ of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or prorated one-twelfth for each month or part of month for a registration period other than a calendar year or calendar quarter;

(b) $1\frac{1}{8}\%$ of the list price during the second quarter of the year;

(c) $\frac{3}{4}$ of 1% during the third quarter of the year;

(d) $\frac{3}{8}$ of 1% during the fourth quarter of the year.

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

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

(5) The new vehicle is subject to the light vehicle license fee or the fee in lieu of tax imposed on motorcycles, if applicable, but is not subject to any other assessment, taxation, or fee in lieu of tax during the calendar year in which the original application for title is made.

(6) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(7) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of

1 incorporated cities or towns and within 15 miles from such
2 limits are exempt from subsection (1).

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

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

16 Section 12. Section 61-3-503, MCA, is amended to read:
17 *61-3-503. Assessment. (1) Except as provided in
18 subsection (2), the following apply to the taxation of motor
19 vehicles:

20 (a) Except as provided in subsection (1)(c), a person
21 who files an application for registration or reregistration
22 of a motor vehicle shall before filing such application with
23 the county treasurer submit the application to the county
24 assessor. The county assessor shall enter on the
25 application in a space to be provided for that purpose the

1 market value and taxable value of the vehicle as of January
2 1 of the year for which the application for registration is
3 made.

4 (b) Except as provided in subsection (1)(c), motor
5 vehicles are assessed for taxes on January 1 in each year
6 irrespective of the time fixed by law for the assessment of
7 other classes of personal property and irrespective of
8 whether the levy and tax may be a lien upon real property
9 within the state. In no event may any motor vehicle be
10 subject to assessment, levy, and taxation more than once in
11 each year.

12 (c) Vehicles subject to the provisions of 61-3-313
13 through 61-3-316 shall be assessed as of the first day of
14 the registration period, using the market value as of
15 January 1 of the year of assessment of the vehicle as
16 contained in the most recent volume of the Mountain States
17 Edition of the National Automobile Dealers Association
18 Official Used Car Guide; and a lien for taxes and fees due
19 thereon shall occur on the anniversary date of the
20 registration and shall continue until such fees and taxes
21 have been paid.

22 (2) The provisions of subsections (1)(a) through
23 (1)(c) do not apply to automobiles and trucks having a rated
24 capacity of three-quarters of a ton or less, motorcycles,
25 motor homes, travel trailers, or mobile homes as defined in

1 15-1-101(1)."

2 Section 13. Section 61-3-504, MCA, is amended to read:

3 "61-3-504. Computation of tax. The amount of taxes on
4 a motor vehicle, other than an automobile, truck having a
5 rated capacity of three-quarters of a ton or less,
6 ~~motorcycles~~, motor home, travel trailer, or mobile home as
7 defined in 15-1-101(1), is computed and determined by the
8 county treasurer on the basis of the levy of the year
9 preceding the current year of application for registration
10 or reregistration. The determination is entered on the
11 application form in a space provided therefor."

12 Section 14. Section 61-3-509, MCA, is amended to read:

13 "61-3-509. Disposition of taxes and fees in lieu of
14 tax. The county treasurer shall credit all taxes on motor
15 vehicles, light vehicle license fees provided for in
16 61-3-532, and fees in lieu of tax on ~~motorcycles~~, motor
17 homes, and travel trailers collected to a motor vehicle
18 suspense fund, and at some time between March 1 and March 10
19 of each year and every 60 days thereafter, the county
20 treasurer shall distribute the money in the motor vehicle
21 suspense fund in the relative proportions required by the
22 levies for state, county, school district, and municipal
23 purposes in the same manner as personal property taxes are
24 distributed."

25 Section 15. Section 61-3-534, MCA, is amended to read:

1 "61-3-534. Payment of fee required for operation. (1)
2 No light vehicle subject to the fee imposed by 61-3-532 or
3 motorcycle subject to a fee in lieu of tax may be operated
4 unless the fee has been paid and the vehicle is licensed.

5 (2) A properly licensed and registered light vehicle
6 or motorcycle may be operated within Montana, subject to all
7 applicable federal, state, and local laws."

8 Section 16. Section 61-3-701, MCA, is amended to read:

9 "61-3-701. Foreign vehicles used in gainful occupation
10 to be registered -- reciprocity. (1) Before any foreign
11 licensed motor vehicle may be operated on the highways of
12 this state for hire, compensation, or profit or before the
13 owner and/or user thereof uses the vehicle if such owner
14 and/or user is engaged in gainful occupation or business
15 enterprise in the state, including highway work, the owner
16 of the vehicle shall make application to a county treasurer
17 for registration upon an application form furnished by the
18 division. Upon satisfactory evidence of ownership submitted
19 to the county treasurer and the payment of property taxes,
20 if appropriate, as required by 15-8-201 through ~~15-8-203~~ and
21 ~~15-8-202~~ or 15-24-301 or the payment of the light vehicle
22 license fee as provided by 61-3-532 or the fee in lieu of
23 tax for motorcycles as provided by [section 1], the
24 treasurer shall accept the application for registration and
25 shall collect the regular license fee required for the

1 vehicle.

2 (2) The treasurer shall thereupon issue to the
3 applicant a copy of the application entitled "Owner's
4 Certificate of Registration and Payment Receipt" and forward
5 a duplicate copy of the certificate to the division. The
6 treasurer shall at the same time issue to the applicant the
7 proper license plates or other identification markers, which
8 shall at all times be displayed upon the vehicle when
9 operated or driven upon roads and highways of this state
10 during the period of the life of the license.

11 (3) The registration receipt shall not constitute
12 evidence of ownership but shall be used only for
13 registration purposes. No Montana certificate of ownership
14 shall be issued for this type of registration.

15 (4) This section is not applicable to any vehicle
16 covered by a valid and existing reciprocal agreement or
17 declaration entered into under the provisions of the laws of
18 Montana."

19 NEW SECTION. Section 17. Effective date. This act is
20 effective on January 1, 1984.

21 NEW SECTION. Section 18. Applicability. This act
22 applies to motorcycles registered during and after 1984.

23 NEW SECTION. Section 19. Codification instruction.
24 Sections 1 and 2 are intended to be codified as an integral
25 part of Title 61, chapter 3, part 5, and the provisions of

1 Title 61 apply to sections 1 and 2.

-End-

STATE OF MONTANA

REQUEST NO. 035-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 83, there is hereby submitted a Fiscal Note for House Bill 33 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:

House Bill 33 replaces the present system of taxation of motorcycles with a fee system and provides an effective date and an applicability clause.

ASSUMPTIONS:

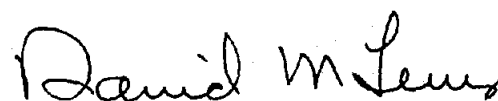
- 1) Number of motorcycles registered is 30,137, as reported by the Motor Vehicles Division for 1982.
- 2) The distribution of registered motorcycles by age is approximately as follows regardless of the size of the motorcycle; 61 percent are over 4 years old; 19 percent are 2-4 years old; and 20 percent are 2 years old or less.
- 3) Approximately half of registered motorcycles are 500 cc-1000 cc in size; one-quarter are over 1,000 cc; and one-quarter are 500 cc or less.
- 4) The average property tax paid for each registered motorcycle is \$18.83, as reported by the Motor Vehicle Division for 1982.
- 5) The average total mill levy for counties is 220.58, as estimated by the Department of Revenue for 1982.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Tax Levy for University System (6 Mills)		
Under Current Law	15,027	15,027
Under Proposed Law	<u>16,731</u>	<u>16,731</u>
Estimated Increase	<u>1,704</u>	<u>1,704</u>

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

If the proposed law had been in effect in 1982, revenue for local government (city, county, and school districts) would have been approximately 11.3 percent higher than it was under the present system. Future increases in local revenue will depend on the number and size of new motorcycles sold.

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

FY84FY85**Property Tax Revenue from Motorcycle****Registration****Under Current Law****552,453****552,453****Under Proposed Law****615,084****615,084****Estimated Increase****62,631****62,631**

Approved by committee
on Taxation

HOUSE BILL NO. 33

INTRODUCED BY KITSELMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE PRESENT SYSTEM OF TAXATION OF MOTORCYCLES WITH A FEE SYSTEM; AMENDING SECTIONS 15-6-138, 15-6-201, 15-8-201, 15-8-202, 15-30-121, 15-31-114, 61-3-303, 61-3-501 THROUGH 61-3-504, 61-3-509, 61-3-534, AND 61-3-701, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY CLAUSE."

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

NEW SECTION. Section 1. Motorcycle license fee. (1) Except as provided in subsection (2), motorcycles are subject to a license fee. This fee is imposed in lieu of a property tax and is in addition to the tax on new motor vehicles.

(2) (a) Motorcycles that meet the description of property exempt from taxation under the provisions of subsection (a), (c), (d), or (e) of 15-6-201(1) or 15-6-203(2) are exempt from the fee imposed in subsection (1).

(b) A dealer for motorcycles is not required to pay the license fee for motorcycles held for sale or used in the dealer's business in selling or demonstrating the motorcycles. Motorcycles exempt under this subsection may

not be operated for the personal use of the dealer, his family, or his employees or for any use not necessary in the pursuit of business.

NEW SECTION. Section 2. Schedule of fees for motorcycles. (1) The following schedule based on motorcycle age and size shall be used to determine the fee imposed by [section 1]:

Motorcycle Age	Motorcycle Size		
	1,000cc or less		
500cc	but more	More than	
or less	than 500cc	1,000cc	
Less than or equal			
to 2 years	\$25	\$35	\$45
More than 2 years			
but less than or			
equal to 4 years	\$15 20	25 30	35 40
More than 4 years	5 10	\$15 20	25 30

(2) "Motorcycle age" means the difference between the calendar year of the first day of the registration period and the manufacturer's designated model year.

Section 3. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment;

1 (b) all mining machinery, fixtures, equipment, tools,
2 and supplies except:

3 (i) those included in class five; and

4 (ii) coal and ore haulers;

5 (c) all manufacturing machinery, fixtures, equipment,
6 tools, and supplies except those included in class five;

7 ~~(d) motorcycles;~~

8 ~~(e) (d) watercraft;~~

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

10 ~~(g) (f) aircraft;~~

11 ~~(h) (g) all-terrain vehicles;~~

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

13 and

14 ~~(j) (i) all other machinery except that specifically~~
15 ~~included in another class.~~

16 (2) Class eight property is taxed at 11% of its market
17 value."

18 Section 4. Section 15-6-201, MCA, is amended to read:

19 "15-6-201. (Temporary) Exempt categories. (1) The
20 following categories of property are exempt from taxation:

21 (a) the property of:

22 (i) the United States, the state, counties, cities,
23 towns, school districts;

24 (ii) irrigation districts organized under the laws of
25 Montana and not operating for profit;

1 (iii) municipal corporations; and

2 (iv) public libraries;

3 (b) buildings, with land they occupy and furnishings
4 therein, owned by a church and used for actual religious
5 worship or for residences of the clergy, together with
6 adjacent land reasonably necessary for convenient use of
7 such buildings;

8 (c) property used exclusively for agricultural and
9 horticultural societies, for educational purposes, and for
10 hospitals;

11 (d) property that meets the following conditions:

12 (i) is owned and held by any association or
13 corporation organized under Title 35, chapter 2, 3, 20, or
14 21;

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

19 (iii) is not maintained and operated for private or
20 corporate profit;

21 (e) institutions of purely public charity;

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

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

1 (h) all household goods and furniture, including but
2 not limited to clocks, musical instruments, sewing machines,
3 and wearing apparel of members of the family, used by the
4 owner for personal and domestic purposes or for furnishing
5 or equipping the family residence;

6 (i) a truck canopy cover or topper weighing less than
7 300 pounds and having no accommodations attached. Such
8 property is also exempt from the fee in lieu of tax.

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

11 (k) automobiles and trucks having a rated capacity of
12 three-quarters of a ton or less; and

13 ~~(1) motorcycles.~~

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

18 (b) The terms "public art galleries" and "public
19 observatories" include only those art galleries and
20 observatories, whether of public or private ownership, that
21 are open to the public without charge at all reasonable
22 hours and are used for the purpose of education only.

23 (3) The following portions of the appraised value of a
24 capital investment made after January 1, 1979, in a
25 recognized nonfossil form of energy generation, as defined

1 in 15-32-102, are exempt from taxation for a period of 10
2 years following installation of the property:

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

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

7 Section 5. Section 15-8-201, MCA, is amended to read:

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

20 (2) The procedure provided by this section may not
21 apply to:

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

25 (b) automobiles and trucks having a rated capacity of

1 three-quarters of a ton or less;

2 (c) ~~motorcycles~~ motor homes, and travel trailers
3 subject to a fee in lieu of property tax;

4 (d) livestock;

5 (e) property defined in 61-1-104(2) as "special mobile
6 equipment" that is subject to assessment for personal
7 property taxes on the date that application is made for a
8 special mobile equipment plate; and

9 (f) mobile homes held by a distributor or dealer of
10 mobile homes as a part of his stock in trade.

11 (3) Credits must be assessed as provided in
12 15-1-101(1)(e)(d)."

13 Section 6. Section 15-8-202, MCA, is amended to read:

14 "15-8-202. Motor vehicle assessment. (1) (a) The
15 department or its agent must, in each year, ascertain and
16 assess all motor vehicles other than automobiles, trucks
17 having a rated capacity of three-quarters of a ton or less,
18 ~~motorcycles~~ motor homes, travel trailers, or mobile homes
19 in each county subject to taxation as of January 1 or as of
20 the anniversary registration date of those vehicles subject
21 to 61-3-313 through 61-3-316 and 61-3-501. The assessment
22 for all motor vehicles will be made using the market value
23 as of January 1 of the year of assessment of the vehicle as
24 contained in the most recent volume of the Mountain States
25 Edition of the National Automobile Dealers Association

1 Official Used Car Guide. The motor vehicles shall be
2 assessed in each year to the persons by whom owned or
3 claimed or in whose possession or control they were at
4 midnight of January 1 or the anniversary registration date
5 thereof, whichever is applicable.

6 (b) No tax may be assessed against motor vehicles
7 subject to taxation that constitute inventory of motor
8 vehicle dealers as of January 1. These vehicles and all
9 other motor vehicles subject to taxation brought into the
10 state subsequent to January 1 as motor vehicle dealers'
11 inventories shall be assessed to their respective purchasers
12 as of the dates the vehicles are registered by the
13 purchasers.

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

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

20 (2) In all cases where taxes or a fee in lieu of tax
21 were required to be paid, the applicant for registration or
22 reregistration of a motor vehicle, other than a mobile home,
23 is not relieved of the duty of paying taxes or the fee in
24 lieu of tax if the taxes or fees have not been paid by a
25 prior applicant or owner."

1 Section 7. Section 15-30-121, MCA, is amended to read:
 2 "15-30-121. Deductions allowed in computing net
 3 income. In computing net income, there are allowed as
 4 deductions:

5 (1) the items referred to in sections 161 and 211 of
 6 the Internal Revenue Code of 1954, or as sections 161 and
 7 211 shall be labeled or amended, subject to the following
 8 exceptions which are not deductible:

- 9 (a) items provided for in 15-30-123;
 10 (b) state income tax paid;
 11 (2) federal income tax paid within the taxable year;
 12 (3) child and dependent care expenses determined in
 13 accordance with the provisions of section 214 of the
 14 Internal Revenue Code of 1954 that were in effect for the
 15 taxable year that began January 1, 1974. However, the
 16 limitation set forth in section 214(e)(4) of the Internal
 17 Revenue Code of 1954 as that section was in effect for the
 18 taxable year that began January 1, 1974, applies only to
 19 payments made to a child of the taxpayer who is under 19
 20 years of age at the close of the taxable year and to
 21 payments made to an individual with respect to whom a
 22 deduction is allowable under 15-30-112(5) to the taxpayer or
 23 the taxpayer's spouse.
 24 (4) in the case of an individual, political
 25 contributions determined in accordance with the provisions

1 of section 218(a) and (b) of the Internal Revenue Code that
 2 were in effect for the taxable year ended December 31, 1978;

3 (5) that portion of expenses for organic fertilizer
 4 allowed as a deduction under 15-32-303 which was not
 5 otherwise deducted in computing taxable income;

6 (6) light vehicle license fees, as provided by
 7 61-3-532, paid during the taxable year;

8 ~~(7) motorcycle fees in lieu of tax, as provided by~~
 9 ~~[section 11, paid during the taxable year.]~~

10 Section 8. Section 15-31-114, MCA, is amended to read:
 11 "15-31-114. Deductions allowed in computing income. In
 12 computing the net income, the following deductions shall be
 13 allowed from the gross income received by such corporation
 14 within the year from all sources:

- 15 (1) All the ordinary and necessary expenses paid or
 16 incurred during the taxable year in the maintenance and
 17 operation of its business and properties, including
 18 reasonable allowance for salaries for personal services
 19 actually rendered, subject to the limitation hereinafter
 20 contained, rentals or other payments required to be made as
 21 a condition to the continued use or possession of property
 22 to which the corporation has not taken or is not taking
 23 title or in which it has no equity. No deduction shall be
 24 allowed for salaries paid upon which the recipient thereof
 25 has not paid Montana state income tax; provided, however,

1 that where domestic corporations are taxed on income derived
2 from without the state, salaries of officers paid in
3 connection with securing such income shall be deductible.

4 (2) (a) All losses actually sustained and charged off
5 within the year and not compensated by insurance or
6 otherwise, including a reasonable allowance for the wear and
7 tear and obsolescence of property used in the trade or
8 business, such allowance to be determined according to the
9 provisions of section 167 of the Internal Revenue Code in
10 effect with respect to the taxable year. All elections for
11 depreciation shall be the same as the elections made for
12 federal income tax purposes. No deduction shall be allowed
13 for any amount paid out for any buildings, permanent
14 improvements, or betterments made to increase the value of
15 any property or estate, and no deduction shall be made for
16 any amount of expense of restoring property or making good
17 the exhaustion thereof for which an allowance is or has been
18 made.

19 (b) (i) There shall be allowed as a deduction for the
20 taxable period a net operating loss deduction determined
21 according to the provisions of this subsection. The net
22 operating loss deduction is the aggregate of net operating
23 loss carryovers to such taxable period plus the net
24 operating loss carrybacks to such taxable period. The term
25 "net operating loss" means the excess of the deductions

1 allowed by this section, 15-31-114, over the gross income,
2 with the modifications specified in (ii) of this subsection.
3 If for any taxable period beginning after December 31, 1970,
4 a net operating loss is sustained, such loss shall be a net
5 operating loss carryback to each of the three taxable
6 periods preceding the taxable period of such loss and shall
7 be a net operating loss carryover to each of the five
8 taxable periods following the taxable period of such loss. A
9 net operating loss for any taxable period ending after
10 December 31, 1975, in addition to being a net operating loss
11 carryback to each of the three preceding taxable periods,
12 shall be a net operating loss carryover to each of the seven
13 taxable periods following the taxable period of such loss.
14 The portion of such loss which shall be carried to each of
15 the other taxable years shall be the excess, if any, of the
16 amount of such loss over the sum of the net income for each
17 of the prior taxable periods to which such loss was carried.
18 For purposes of the preceding sentence, the net income for
19 such prior taxable period shall be computed with the
20 modifications specified in (ii)(B) of this subsection and by
21 determining the amount of the net operating loss deduction
22 without regard to the net operating loss for the loss period
23 or any taxable period thereafter, and the net income so
24 computed shall not be considered to be less than zero.

25 (ii) The modifications referred to in (i) of this

1 subsection shall be as follows:

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

3 (B) The deduction for depletion shall not exceed the
4 amount which would be allowable if computed under the cost
5 method.

6 (C) Any net operating loss carried over to any taxable
7 years beginning after December 31, 1978, must be calculated
8 under the provisions of this section effective for the
9 taxable year for which the return claiming the net operating
10 loss carryover is filed.

11 (iii) A net operating loss deduction shall be allowed
12 only with regard to losses attributable to the business
13 carried on within the state of Montana.

14 (iv) In the case of a merger of corporations, the
15 surviving corporation shall not be allowed a net operating
16 loss deduction for net operating losses sustained by the
17 merged corporations prior to the date of merger. In the case
18 of a consolidation of corporations, the new corporate entity
19 shall not be allowed a deduction for net operating losses
20 sustained by the consolidated corporations prior to the date
21 of consolidation.

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

25 (vi) The net operating loss deduction shall not be

1 allowed with respect to taxable periods which ended on or
2 before December 31, 1970, but shall be allowed only with
3 respect to taxable periods beginning on or after January 1,
4 1971.

5 (3) In the case of mines, other natural deposits, oil
6 and gas wells, and timber, a reasonable allowance for
7 depletion and for depreciation of improvements; such
8 reasonable allowance to be determined according to the
9 provisions of the Internal Revenue Code in effect for the
10 taxable year. All elections made under the Internal Revenue
11 Code with respect to capitalizing or expensing exploration
12 and development costs and intangible drilling expenses for
13 corporation license tax purposes shall be the same as the
14 elections made for federal income tax purposes.

15 (4) The amount of interest paid within the year on its
16 indebtedness incurred in the operation of the business from
17 which its income is derived; but no interest shall be
18 allowed as a deduction if paid on an indebtedness created
19 for the purchase, maintenance, or improvement of property or
20 for the conduct of business unless the income from such
21 property or business would be taxable under this part.

22 (5) (a) Taxes paid within the year except the
23 following:

24 (i) Taxes imposed by this part.

25 (ii) Taxes assessed against local benefits of a kind

tending to increase the value of the property assessed.

(iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

(iv) Taxes imposed by any other state or country upon or measured by net income or profits.

(b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school district, or municipality of this state.

(6) Light vehicle license fees, as provided by 61-3-532, ~~and fees in lieu of tax for motorcycles, as provided by [section 1],~~ paid within the year.

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

(8) (a) Except as provided in subsection (b), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, as amended.

(b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection."

Section 9. Section 61-3-303, MCA, is amended to read:

"61-3-303. Application for registration. (1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall for each motor vehicle owned,

except as herein otherwise expressly provided, file or cause to be filed in the office of the county treasurer where the motor vehicle is owned or taxable an application for registration or reregistration upon a blank form to be prepared and furnished by the division. The application shall contain:

(a) name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;

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

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

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

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

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

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

3 (b) unless it has been previously paid:

4 (i) the personal property taxes assessed;

5 (ii) the new motor vehicle sales tax against the
6 vehicle for the current year of registration and/or the
7 license fee imposed by 61-3-532 or [section 1]; or

8 (iii) in the case of a motor home, travel trailer, or
9 camper, the fee in lieu of property tax for the current year
10 of registration.

11 (3) The application may not be accepted by the county
12 treasurer unless the payments required by subsection (2)
13 accompany the application.

14 (4) 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 or other appropriate records of the
18 proper county at the request of the county treasurer."

19 Section 10. Section 61-3-501, MCA, is amended to read:

20 "61-3-501. When vehicle taxes and fees are due. (1)
21 Property taxes, new car taxes, light vehicle license fees,
22 and fees in lieu of tax on a ~~motorcycle~~, 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, light
3 vehicle license fees, or the fee in lieu of property taxes
4 abate on such vehicle properly reported with the department
5 of revenue until the vehicle is sold and thereafter the
6 purchaser shall pay the pro rata balance of the taxes or the
7 fee in lieu of tax due and owing on the vehicle.

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

21 Section 11. Section 61-3-502, MCA, is amended to read:

22 "61-3-502. Sales tax on new motor vehicles --
23 exemptions. (1) In consideration of the right to use the
24 highways of the state, there is imposed a tax upon all sales
25 of new motor vehicles for which a license is sought and an

original application for title is made. The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) The sales tax shall be:

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

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

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

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

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

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

(5) The new vehicle is subject to the light vehicle license fee or the fee in lieu of tax imposed on motorcycles, if applicable, but is not subject to any other assessment, taxation, or fee in lieu of tax during the calendar year in which the original application for title is made.

(6) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(7) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of

1 incorporated cities or towns and within 15 miles from such
2 limits are exempt from subsection (1).

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

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

16 Section 12. Section 61-3-503, MCA, is amended to read:
17 "61-3-503. Assessment. (1) Except as provided in
18 subsection (2), the following apply to the taxation of motor
19 vehicles:

20 (a) Except as provided in subsection (1)(c), a person
21 who files an application for registration or reregistration
22 of a motor vehicle shall before filing such application with
23 the county treasurer submit the application to the county
24 assessor. The county assessor shall enter on the
25 application in a space to be provided for that purpose the

1 market value and taxable value of the vehicle as of January
2 1 of the year for which the application for registration is
3 made.

4 (b) Except as provided in subsection (1)(c), motor
5 vehicles are assessed for taxes on January 1 in each year
6 irrespective of the time fixed by law for the assessment of
7 other classes of personal property and irrespective of
8 whether the levy and tax may be a lien upon real property
9 within the state. In no event may any motor vehicle be
10 subject to assessment, levy, and taxation more than once in
11 each year.

12 (c) Vehicles subject to the provisions of 61-3-313
13 through 61-3-316 shall be assessed as of the first day of
14 the registration period, using the market value as of
15 January 1 of the year of assessment of the vehicle as
16 contained in the most recent volume of the Mountain States
17 Edition of the National Automobile Dealers Association
18 Official Used Car Guide; and a lien for taxes and fees due
19 thereon shall occur on the anniversary date of the
20 registration and shall continue until such fees and taxes
21 have been paid.

22 (2) The provisions of subsections (1)(a) through
23 (1)(c) do not apply to automobiles and trucks having a rated
24 capacity of three-quarters of a ton or less, ~~motorcycles,~~
25 motor homes, travel trailers, or mobile homes as defined in

1 15-1-101(1)."

2 Section 13. Section 61-3-504, MCA, is amended to read:

3 "61-3-504. Computation of tax. The amount of taxes on
4 a motor vehicle, other than an automobile, truck having a
5 rated capacity of three-quarters of a ton or less,
6 ~~motorcycle~~, motor home, travel trailer, or mobile home as
7 defined in 15-1-101(1), is computed and determined by the
8 county treasurer on the basis of the levy of the year
9 preceding the current year of application for registration
10 or reregistration. The determination is entered on the
11 application form in a space provided therefor."

12 Section 14. Section 61-3-509, MCA, is amended to read:

13 "61-3-509. Disposition of taxes and fees in lieu of
14 tax. The county treasurer shall credit all taxes on motor
15 vehicles, light vehicle license fees provided for in
16 61-3-532, and fees in lieu of tax on ~~motorcycles~~, motor
17 homes, and travel trailers collected to a motor vehicle
18 suspense fund, and at some time between March 1 and March 10
19 of each year and every 60 days thereafter, the county
20 treasurer shall distribute the money in the motor vehicle
21 suspense fund in the relative proportions required by the
22 levies for state, county, school district, and municipal
23 purposes in the same manner as personal property taxes are
24 distributed."

25 Section 15. Section 61-3-534, MCA, is amended to read:

1 "61-3-534. Payment of fee required for operation. (1)

2 No light vehicle subject to the fee imposed by 61-3-532 ~~or~~
3 ~~motorcycle subject to a fee in lieu of tax~~ may be operated
4 unless the fee has been paid and the vehicle is licensed.

5 (2) A properly licensed and registered light vehicle
6 ~~or motorcycle~~ may be operated within Montana, subject to all
7 applicable federal, state, and local laws."

8 Section 16. Section 61-3-701, MCA, is amended to read:

9 "61-3-701. Foreign vehicles used in gainful occupation
10 to be registered -- reciprocity. (1) Before any foreign
11 licensed motor vehicle may be operated on the highways of
12 this state for hire, compensation, or profit or before the
13 owner and/or user thereof uses the vehicle if such owner
14 and/or user is engaged in gainful occupation or business
15 enterprise in the state, including highway work, the owner
16 of the vehicle shall make application to a county treasurer
17 for registration upon an application form furnished by the
18 division. Upon satisfactory evidence of ownership submitted
19 to the county treasurer and the payment of property taxes,
20 if appropriate, as required by 15-8-201 through ~~15-9-203~~ and
21 ~~15-8-202~~ or 15-24-301 or the payment of the light vehicle
22 license fee as provided by 61-3-532 ~~or the fee in lieu of~~
23 ~~tax for motorcycles as provided by [section 1]~~, the
24 treasurer shall accept the application for registration and
25 shall collect the regular license fee required for the

1 vehicle.

2 (2) The treasurer shall thereupon issue to the
3 applicant a copy of the application entitled "Owner's
4 Certificate of Registration and Payment Receipt" and forward
5 a duplicate copy of the certificate to the division. The
6 treasurer shall at the same time issue to the applicant the
7 proper license plates or other identification markers, which
8 shall at all times be displayed upon the vehicle when
9 operated or driven upon roads and highways of this state
10 during the period of the life of the license.

11 (3) The registration receipt shall not constitute
12 evidence of ownership but shall be used only for
13 registration purposes. No Montana certificate of ownership
14 shall be issued for this type of registration.

15 (4) This section is not applicable to any vehicle
16 covered by a valid and existing reciprocal agreement or
17 declaration entered into under the provisions of the laws of
18 Montana."

19 NEW SECTION. Section 17. Effective date. This act is
20 effective on January 1, 1984.

21 NEW SECTION. Section 18. Applicability. This act
22 applies to motorcycles registered during and after 1984.

23 NEW SECTION. Section 19. Codification instruction.
24 Sections 1 and 2 are intended to be codified as an integral
25 part of Title 61, chapter 3, part 5, and the provisions of

1 Title 61 apply to sections 1 and 2.

-End-

HOUSE BILL NO. 33

INTRODUCED BY KITSELMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE PRESENT SYSTEM OF TAXATION OF MOTORCYCLES WITH A FEE SYSTEM; AMENDING SECTIONS 15-6-138, 15-6-201, 15-8-201, 15-8-202, 15-30-121, 15-31-114, 61-3-303, 61-3-501 THROUGH 61-3-504, 61-3-509, 61-3-534, AND 61-3-701, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY CLAUSE."

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

NEW SECTION. Section 1. Motorcycle license fee. (1) Except as provided in subsection (2), motorcycles are subject to a license fee. This fee is imposed in lieu of a property tax and is in addition to the tax on new motor vehicles.

(2) (a) Motorcycles that meet the description of property exempt from taxation under the provisions of subsection (a), (c), (d), or (e) of 15-6-201(1) or 15-6-203(2) are exempt from the fee imposed in subsection (1).

(b) A dealer for motorcycles is not required to pay the license fee for motorcycles held for sale or used in the dealer's business in selling or demonstrating the motorcycles. Motorcycles exempt under this subsection may

not be operated for the personal use of the dealer, his family, or his employees or for any use not necessary in the pursuit of business.

NEW SECTION. Section 2. Schedule of fees for motorcycles. (1) The following schedule based on motorcycle age and size shall be used to determine the fee imposed by [section 1]:

Motorcycle Age	Motorcycle Size		
	1,000cc or less	500cc but more than 500cc	More than 1,000cc
Less than or equal to 2 years	\$25	\$35	\$45
More than 2 years but less than or equal to 4 years	25 20 15	25 30 25	35 40 25
More than 4 years	5 10	15 20 15	25 30 25

(2) "Motorcycle age" means the difference between the calendar year of the first day of the registration period and the manufacturer's designated model year.

Section 3. Section 15-6-138, MCA, is amended to read: "15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment;

1 (b) all mining machinery, fixtures, equipment, tools,
 2 and supplies except:
 3 (i) those included in class five; and
 4 (ii) coal and ore haulers;
 5 (c) all manufacturing machinery, fixtures, equipment,
 6 tools, and supplies except those included in class five;
 7 ~~(d) motorcycles;~~
 8 ~~(e)(i)~~ watercraft;
 9 ~~(f)(i)~~ light utility and boat trailers;
 10 ~~(g)(i)~~ aircraft;
 11 ~~(h)(i)~~ all-terrain vehicles;
 12 ~~(i)(i)~~ harness, saddlery, and other tack equipment;
 13 and
 14 ~~(j)(i)~~ all other machinery except that specifically
 15 included in another class.
 16 (2) Class eight property is taxed at 11% of its market
 17 value."
 18 Section 4, Section 15-6-201, MCA, is amended to read:
 19 "15-6-201. (Temporary) Exempt categories. (1) The
 20 following categories of property are exempt from taxation:
 21 (a) the property of:
 22 (i) the United States, the state, counties, cities,
 23 towns, school districts;
 24 (ii) irrigation districts organized under the laws of
 25 Montana and not operating for profit;

1 (iii) municipal corporations; and
 2 (iv) public libraries;
 3 (b) buildings, with land they occupy and furnishings
 4 therein, owned by a church and used for actual religious
 5 worship or for residences of the clergy, together with
 6 adjacent land reasonably necessary for convenient use of
 7 such buildings;
 8 (c) property used exclusively for agricultural and
 9 horticultural societies, for educational purposes, and for
 10 hospitals;
 11 (d) property that meets the following conditions:
 12 (i) is owned and held by any association or
 13 corporation organized under Title 35, chapter 2, 3, 20, or
 14 21;
 15 (ii) is devoted exclusively to use in connection with a
 16 cemetery or cemeteries for which a permanent care and
 17 improvement fund has been established as provided for in
 18 Title 35, chapter 20, part 3; and
 19 (iii) is not maintained and operated for private or
 20 corporate profit;
 21 (e) institutions of purely public charity;
 22 (f) evidence of debt secured by mortgages of record
 23 upon real or personal property in the state of Montana;
 24 (g) public art galleries and public observatories not
 25 used or held for private or corporate profit;

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

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

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

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less; and

(l) motorcycles.

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

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

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined

in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

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

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

Section 5. Section 15-8-201, MCA, is amended to read:

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

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

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

(b) automobiles and trucks having a rated capacity of

1 three-quarters of a ton or less;

2 (c) ~~motorcycles~~, motor homes, and travel trailers
3 subject to a fee in lieu of property tax;

4 (d) livestock;

5 (e) property defined in 61-1-104~~(2)~~ as "special mobile
6 equipment" that is subject to assessment for personal
7 property taxes on the date that application is made for a
8 special mobile equipment plate; and

9 (f) mobile homes held by a distributor or dealer of
10 mobile homes as a part of his stock in trade.

11 (3) Credits must be assessed as provided in
12 15-1-101(1)~~(c)~~(d)."

13 Section 6. Section 15-8-202, MCA, is amended to read:

14 "15-8-202. Motor vehicle assessment. (1) (a) The
15 department or its agent must, in each year, ascertain and
16 assess all motor vehicles other than automobiles, trucks
17 having a rated capacity of three-quarters of a ton or less,
18 ~~motorcycles~~, motor homes, travel trailers, or mobile homes
19 in each county subject to taxation as of January 1 or as of
20 the anniversary registration date of those vehicles subject
21 to 61-3-313 through 61-3-316 and 61-3-501. The assessment
22 for all motor vehicles will be made using the market value
23 as of January 1 of the year of assessment of the vehicle as
24 contained in the most recent volume of the Mountain States
25 Edition of the National Automobile Dealers Association

1 Official Used Car Guide. The motor vehicles shall be
2 assessed in each year to the persons by whom owned or
3 claimed or in whose possession or control they were at
4 midnight of January 1 or the anniversary registration date
5 thereof, whichever is applicable.

6 (b) No tax may be assessed against motor vehicles
7 subject to taxation that constitute inventory of motor
8 vehicle dealers as of January 1. These vehicles and all
9 other motor vehicles subject to taxation brought into the
10 state subsequent to January 1 as motor vehicle dealers'
11 inventories shall be assessed to their respective purchasers
12 as of the dates the vehicles are registered by the
13 purchasers.

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

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

20 (2) In all cases where taxes or a fee in lieu of tax
21 were required to be paid, the applicant for registration or
22 reregistration of a motor vehicle, other than a mobile home,
23 is not relieved of the duty of paying taxes or the fee in
24 lieu of tax if the taxes or fees have not been paid by a
25 prior applicant or owner."

1 Section 7. Section 15-30-121, MCA, is amended to read:
 2 "15-30-121. Deductions allowed in computing net
 3 income. In computing net income, there are allowed as
 4 deductions:

5 (1) the items referred to in sections 161 and 211 of
 6 the Internal Revenue Code of 1954, or as sections 161 and
 7 211 shall be labeled or amended, subject to the following
 8 exceptions which are not deductible:

9 (a) items provided for in 15-30-123;

10 (b) state income tax paid;

11 (2) federal income tax paid within the taxable year;

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

24 (4) in the case of an individual, political
 25 contributions determined in accordance with the provisions

1 of section 218(a) and (b) of the Internal Revenue Code that
 2 were in effect for the taxable year ended December 31, 1978;

3 (5) that portion of expenses for organic fertilizer
 4 allowed as a deduction under 15-32-303 which was not
 5 otherwise deducted in computing taxable income;

6 (6) light vehicle license fees, as provided by
 7 61-3-532, paid during the taxable year;

8 ~~(7) motorcycle fees in lieu of tax, as provided by~~
 9 ~~[section 1], paid during the taxable year."~~

10 Section 8. Section 15-31-114, MCA, is amended to read:

11 "15-31-114. Deductions allowed in computing income. In
 12 computing the net income, the following deductions shall be
 13 allowed from the gross income received by such corporation
 14 within the year from all sources:

15 (1) All the ordinary and necessary expenses paid or
 16 incurred during the taxable year in the maintenance and
 17 operation of its business and properties, including
 18 reasonable allowance for salaries for personal services
 19 actually rendered, subject to the limitation hereinafter
 20 contained, rentals or other payments required to be made as
 21 a condition to the continued use or possession of property
 22 to which the corporation has not taken or is not taking
 23 title or in which it has no equity. No deduction shall be
 24 allowed for salaries paid upon which the recipient thereof
 25 has not paid Montana state income tax; provided, however,

1 that where domestic corporations are taxed on income derived
2 from without the state, salaries of officers paid in
3 connection with securing such income shall be deductible.

4 (2) (a) All losses actually sustained and charged off
5 within the year and not compensated by insurance or
6 otherwise, including a reasonable allowance for the wear and
7 tear and obsolescence of property used in the trade or
8 business, such allowance to be determined according to the
9 provisions of section 167 of the Internal Revenue Code in
10 effect with respect to the taxable year. All elections for
11 depreciation shall be the same as the elections made for
12 federal income tax purposes. No deduction shall be allowed
13 for any amount paid out for any buildings, permanent
14 improvements, or betterments made to increase the value of
15 any property or estate, and no deduction shall be made for
16 any amount of expense of restoring property or making good
17 the exhaustion thereof for which an allowance is or has been
18 made.

19 (b) (i) There shall be allowed as a deduction for the
20 taxable period a net operating loss deduction determined
21 according to the provisions of this subsection. The net
22 operating loss deduction is the aggregate of net operating
23 loss carryovers to such taxable period plus the net
24 operating loss carrybacks to such taxable period. The term
25 "net operating loss" means the excess of the deductions

1 allowed by this section, 15-31-114, over the gross income,
2 with the modifications specified in (ii) of this subsection.
3 If for any taxable period beginning after December 31, 1970,
4 a net operating loss is sustained, such loss shall be a net
5 operating loss carryback to each of the three taxable
6 periods preceding the taxable period of such loss and shall
7 be a net operating loss carryover to each of the five
8 taxable periods following the taxable period of such loss. A
9 net operating loss for any taxable period ending after
10 December 31, 1975, in addition to being a net operating loss
11 carryback to each of the three preceding taxable periods,
12 shall be a net operating loss carryover to each of the seven
13 taxable periods following the taxable period of such loss.
14 The portion of such loss which shall be carried to each of
15 the other taxable years shall be the excess, if any, of the
16 amount of such loss over the sum of the net income for each
17 of the prior taxable periods to which such loss was carried.
18 For purposes of the preceding sentence, the net income for
19 such prior taxable period shall be computed with the
20 modifications specified in (ii)(B) of this subsection and by
21 determining the amount of the net operating loss deduction
22 without regard to the net operating loss for the loss period
23 or any taxable period thereafter, and the net income so
24 computed shall not be considered to be less than zero.

25 (ii) The modifications referred to in (i) of this

1 subsection shall be as follows:

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

3 (B) The deduction for depletion shall not exceed the
4 amount which would be allowable if computed under the cost
5 method.

6 (C) Any net operating loss carried over to any taxable
7 years beginning after December 31, 1978, must be calculated
8 under the provisions of this section effective for the
9 taxable year for which the return claiming the net operating
10 loss carryover is filed.

11 (iii) A net operating loss deduction shall be allowed
12 only with regard to losses attributable to the business
13 carried on within the state of Montana.

14 (iv) In the case of a merger of corporations, the
15 surviving corporation shall not be allowed a net operating
16 loss deduction for net operating losses sustained by the
17 merged corporations prior to the date of merger. In the case
18 of a consolidation of corporations, the new corporate entity
19 shall not be allowed a deduction for net operating losses
20 sustained by the consolidated corporations prior to the date
21 of consolidation.

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

25 (vi) The net operating loss deduction shall not be

1 allowed with respect to taxable periods which ended on or
2 before December 31, 1970, but shall be allowed only with
3 respect to taxable periods beginning on or after January 1,
4 1971.

5 (3) In the case of mines, other natural deposits, oil
6 and gas wells, and timber, a reasonable allowance for
7 depletion and for depreciation of improvements; such
8 reasonable allowance to be determined according to the
9 provisions of the Internal Revenue Code in effect for the
10 taxable year. All elections made under the Internal Revenue
11 Code with respect to capitalizing or expensing exploration
12 and development costs and intangible drilling expenses for
13 corporation license tax purposes shall be the same as the
14 elections made for federal income tax purposes.

15 (4) The amount of interest paid within the year on its
16 indebtedness incurred in the operation of the business from
17 which its income is derived; but no interest shall be
18 allowed as a deduction if paid on an indebtedness created
19 for the purchase, maintenance, or improvement of property or
20 for the conduct of business unless the income from such
21 property or business would be taxable under this part.

22 (5) (a) Taxes paid within the year except the
23 following:

24 (i) Taxes imposed by this part.

25 (ii) Taxes assessed against local benefits of a kind

tending to increase the value of the property assessed.

(iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

(iv) Taxes imposed by any other state or country upon or measured by net income or profits.

(b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school district, or municipality of this state.

(6) Light vehicle license fees, as provided by 61-3-532, ~~and fees in lieu of tax for motorcycles, as provided by [section 1]~~, paid within the year.

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

(8) (a) Except as provided in subsection (b), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, as amended.

(b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection."

Section 9. Section 61-3-303, MCA, is amended to read:

"61-3-303. Application for registration. (1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall for each motor vehicle owned,

except as herein otherwise expressly provided, file or cause to be filed in the office of the county treasurer where the motor vehicle is owned or taxable an application for registration or reregistration upon a blank form to be prepared and furnished by the division. The application shall contain:

(a) name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;

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

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

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

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

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

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

3 (b) unless it has been previously paid:

4 (i) the personal property taxes assessed;

5 (ii) the new motor vehicle sales tax against the
6 vehicle for the current year of registration and/or the
7 license fee imposed by 61-3-532 or [section 1]; or

8 (iii) in the case of a motor home, travel trailer, or
9 camper, the fee in lieu of property tax for the current year
10 of registration.

11 (3) The application may not be accepted by the county
12 treasurer unless the payments required by subsection (2)
13 accompany the application.

14 (4) 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 or other appropriate records of the
18 proper county at the request of the county treasurer."

19 Section 10. Section 61-3-501, MCA, is amended to read:

20 "61-3-501. When vehicle taxes and fees are due. (1)
21 Property taxes, new car taxes, light vehicle license fees,
22 and fees in lieu of tax on a ~~motorcycle~~, 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, light
3 vehicle license fees, or the fee in lieu of property taxes
4 abate on such vehicle properly reported with the department
5 of revenue until the vehicle is sold and thereafter the
6 purchaser shall pay the pro rata balance of the taxes or the
7 fee in lieu of tax due and owing on the vehicle.

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

21 Section 11. Section 61-3-502, MCA, is amended to read:

22 "61-3-502. Sales tax on new motor vehicles --
23 exemptions. (1) In consideration of the right to use the
24 highways of the state, there is imposed a tax upon all sales
25 of new motor vehicles for which a license is sought and an

1 original application for title is made. The tax shall be
2 paid by the purchaser when he applies for his original
3 Montana license through the county treasurer.

4 (2) The sales tax shall be:

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

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

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

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

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

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

20 (5) The new vehicle is subject to the light vehicle
21 license fee ~~or the fee in lieu of tax imposed on~~
22 ~~motorcycles~~, if applicable, but 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, or a new motor vehicle
3 furnished without charge by a dealer to a school district
4 for use as a traffic education motor vehicle by a school
5 district operating a state-approved traffic education
6 program within the state, whether or not previously licensed
7 or titled to the school district (except a mobile home as
8 defined in 15-1-101(1)), acquired by original contract after
9 January 1 of any year, is required, whenever the vehicle has
10 not been otherwise assessed, to pay the motor vehicle sales
11 tax provided by this section irrespective of whether the
12 vehicle was in the state of Montana on January 1 of the
13 year.

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

24 (7) (a) Motor vehicles operating exclusively for
25 transportation of persons for hire within the limits of

1 incorporated cities or towns and within 15 miles from such
2 limits are exempt from subsection (1).

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

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

16 Section 12. Section 61-3-503, MCA, is amended to read:
17 "61-3-503. Assessment. (1) Except as provided in
18 subsection (2), the following apply to the taxation of motor
19 vehicles:

20 (a) Except as provided in subsection (1)(c), a person
21 who files an application for registration or reregistration
22 of a motor vehicle shall before filing such application with
23 the county treasurer submit the application to the county
24 assessor. The county assessor shall enter on the
25 application in a space to be provided for that purpose the

1 market value and taxable value of the vehicle as of January
2 1 of the year for which the application for registration is
3 made.

4 (b) Except as provided in subsection (1)(c), motor
5 vehicles are assessed for taxes on January 1 in each year
6 irrespective of the time fixed by law for the assessment of
7 other classes of personal property and irrespective of
8 whether the levy and tax may be a lien upon real property
9 within the state. In no event may any motor vehicle be
10 subject to assessment, levy, and taxation more than once in
11 each year.

12 (c) Vehicles subject to the provisions of 61-3-313
13 through 61-3-316 shall be assessed as of the first day of
14 the registration period, using the market value as of
15 January 1 of the year of assessment of the vehicle as
16 contained in the most recent volume of the Mountain States
17 Edition of the National Automobile Dealers Association
18 Official Used Car Guide; and a lien for taxes and fees due
19 thereon shall occur on the anniversary date of the
20 registration and shall continue until such fees and taxes
21 have been paid.

22 (2) The provisions of subsections (1)(a) through
23 (1)(c) do not apply to automobiles and trucks having a rated
24 capacity of three-quarters of a ton or less, motorcycles,
25 motor homes, travel trailers, or mobile homes as defined in

1 15-1-101(1)."

2 Section 13. Section 61-3-504, MCA, is amended to read:

3 "61-3-504. Computation of tax. The amount of taxes on
4 a motor vehicle, other than an automobile, truck having a
5 rated capacity of three-quarters of a ton or less,
6 ~~motorcycle~~; motor home, travel trailer, or mobile home as
7 defined in 15-1-101(1), is computed and determined by the
8 county treasurer on the basis of the levy of the year
9 preceding the current year of application for registration
10 or reregistration. The determination is entered on the
11 application form in a space provided therefor."

12 Section 14. Section 61-3-509, MCA, is amended to read:

13 "61-3-509. Disposition of taxes and fees in lieu of
14 tax. The county treasurer shall credit all taxes on motor
15 vehicles, light vehicle license fees provided for in
16 61-3-532, and fees in lieu of tax on ~~motorcycles~~, motor
17 homes, and travel trailers collected to a motor vehicle
18 suspense fund, and at some time between March 1 and March 10
19 of each year and every 60 days thereafter, the county
20 treasurer shall distribute the money in the motor vehicle
21 suspense fund in the relative proportions required by the
22 levies for state, county, school district, and municipal
23 purposes in the same manner as personal property taxes are
24 distributed."

25 Section 15. Section 61-3-534, MCA, is amended to read:

1 "61-3-534. Payment of fee required for operation. (1)
2 No light vehicle subject to the fee imposed by 61-3-532 or
3 ~~motorcycle subject to a fee in lieu of tax~~ may be operated
4 unless the fee has been paid and the vehicle is licensed.

5 (2) A properly licensed and registered light vehicle
6 ~~or motorcycle~~ may be operated within Montana, subject to all
7 applicable federal, state, and local laws."

8 Section 16. Section 61-3-701, MCA, is amended to read:

9 "61-3-701. Foreign vehicles used in gainful occupation
10 to be registered -- reciprocity. (1) Before any foreign
11 licensed motor vehicle may be operated on the highways of
12 this state for hire, compensation, or profit or before the
13 owner and/or user thereof uses the vehicle if such owner
14 and/or user is engaged in gainful occupation or business
15 enterprise in the state, including highway work, the owner
16 of the vehicle shall make application to a county treasurer
17 for registration upon an application form furnished by the
18 division. Upon satisfactory evidence of ownership submitted
19 to the county treasurer and the payment of property taxes,
20 if appropriate, as required by 15-8-201 through ~~15-8-203~~ and
21 ~~15-8-202~~ or 15-24-301 or the payment of the light vehicle
22 license fee as provided by 61-3-532 ~~or the fee in lieu of~~
23 ~~tax for motorcycles as provided by [section 1]~~, the
24 treasurer shall accept the application for registration and
25 shall collect the regular license fee required for the

1 vehicle.

2 (2) The treasurer shall thereupon issue to the
3 applicant a copy of the application entitled "Owner's
4 Certificate of Registration and Payment Receipt" and forward
5 a duplicate copy of the certificate to the division. The
6 treasurer shall at the same time issue to the applicant the
7 proper license plates or other identification markers, which
8 shall at all times be displayed upon the vehicle when
9 operated or driven upon roads and highways of this state
10 during the period of the life of the license.

11 (3) The registration receipt shall not constitute
12 evidence of ownership but shall be used only for
13 registration purposes. No Montana certificate of ownership
14 shall be issued for this type of registration.

15 (4) This section is not applicable to any vehicle
16 covered by a valid and existing reciprocal agreement or
17 declaration entered into under the provisions of the laws of
18 Montana."

19 NEW SECTION. Section 17. Effective date. This act is
20 effective on January 1, 1984.

21 NEW SECTION. Section 18. Applicability. This act
22 applies to motorcycles registered during and after 1984.

23 NEW SECTION. Section 19. Codification instruction.
24 Sections 1 and 2 are intended to be codified as an integral
25 part of Title 61, chapter 3, part 5, and the provisions of

1 Title 61 apply to sections 1 and 2.

-End-