

SENATE BILL NO. 329

Introduced: 01/31/83

Referred to Committee on Taxation: 01/31/83

Hearing: 2/10/83

Report: 02/22/83, Do Not Pass, As Amended.

Bill Killed.

*Senate* BILL NO. 329

INTRODUCED BY Sen. Norman Eck Blaylock  
*Williams Berg Richard E. Manning Kemmis Orsioll*  
*Boehman J. Jensen*

BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FISCAL  
ASSISTANCE TO LOCAL GOVERNMENTS BY REINSTATING THE BUSINESS  
INVENTORIES TAX AND PROVIDING AN INCOME TAX OR CORPORATE  
LICENSE TAX CREDIT UP TO A MAXIMUM OF \$9,000 FOR BUSINESS  
INVENTORY TAXES PAID; AMENDING SECTIONS 15-6-136, 15-6-202,  
15-8-104, AND 15-24-301, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-136, MCA, is amended to read:  
"15-6-136. Class six property -- description --  
taxable percentage. (1) Class six property includes:

- (a) business inventories as defined in this section;
- (b) livestock and poultry and the unprocessed products of both;
- (c) all unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer.

(2) "Business inventories" includes goods intended for sale or lease in the ordinary course of business and raw materials and work in progress with respect to such goods. Business inventories do not include goods leased or rented

or mobile homes held by a dealer or distributor as part of his stock in trade. The market value of business inventories, for property tax purposes, is the cost to the person subject to the inventory tax.

(2) Class six property is taxed at 4% of its market value."

Section 2. Section 15-6-202, MCA, is amended to read:  
"15-6-202. Freeport merchandise and---business inventories exemption. (1) Freeport merchandise and-business inventories-are is exempt from taxation.

(2) Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state for storage in transit prior to shipment to a final destination outside the state and which have acquired a taxable situs within the state.

(3) Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged.

(4) Any person or other group seeking to qualify its property for inclusion in the freeport merchandise class shall make application to the department of revenue in such manner or form as may be required by the department.

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~~(5) "Business inventories" includes goods intended for sale or lease in the ordinary course of business and raw materials and work-in-progress with respect to such goods. Business inventories do not include goods leased or rented or mobile homes held by a dealer or distributor as part of his stock-in-trade."~~

Section 3. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value == penalty for underreporting -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells, business inventories, and all other types of property subject to ad valorem taxation.

(2) The taxable value of any underreported portion of any business inventory found as a result of an audit to have been underreported by the owner must be increased by 25% as a penalty for underreporting.

(3) The 25% penalty may be waived by the department if reasonable cause for failure to report the total value of a business inventory is provided to the department.

~~(2)(4)~~ The cost of the audit shall be paid by the department."

Section 4. Section 15-24-301, MCA, is amended to read:

"15-24-301. Personal property brought into the state

-- assessment -- exceptions -- custom combine equipment. (1) Except as provided in subsections (2) through (6), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) any personal property (including livestock) brought, driven, or coming into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property whose owner or user is engaged in gainful occupation or business enterprise in the state; or

(c) property which comes to rest and becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner and to the same extent, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) Nothing in this section shall be construed to levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer in addition to the tax levied against the inventory of such merchant or dealer on the regular assessment date.

1 (4) Any motor vehicle not subject to the light vehicle  
2 license fee brought, driven, or coming into this state by  
3 any nonresident person temporarily employed in Montana and  
4 used exclusively for transportation of such person is  
5 subject to taxation and assessment for taxes as follows:

6 (a) The motor vehicle is taxed by the county in which  
7 it is located.

8 (b) One-fourth of the annual tax liability of the  
9 motor vehicle must be paid for each quarter or portion of a  
10 quarter of the year that the motor vehicle is located in  
11 Montana.

12 (c) The quarterly taxes are due the first day of the  
13 quarter.

14 (5) Agricultural harvesting machinery classified under  
15 class eight, licensed in other states, and operated on the  
16 lands of persons other than the owner of the machinery under  
17 contracts for hire shall be subject to a fee in lieu of  
18 taxation of \$35 per machine for a 60-day period. The  
19 machines shall be subject to taxation under class eight only  
20 if they are sold in Montana.

21 (6) The provisions of this part do not apply to  
22 automobiles and trucks having a rated capacity of  
23 three-quarters of a ton or less. These vehicles are subject  
24 to the fee provided for in 61-3-532."

25 NEW SECTION. Section 5. Statement of purpose. The

1 purpose of [this section and section 6] is to reduce the  
2 paperwork burden imposed by government on the businessman by  
3 permitting the use of federal tax inventory reporting forms  
4 for the Montana property tax business inventory reports. The  
5 report to the assessor shall continue to be made as of each  
6 January 1. Thus, if the taxpayer is an individual proprietor  
7 filing on a calendar-year basis, the schedule C form  
8 attached to his form 1040 will also be his property tax  
9 inventory report. However, if the taxpayer's taxable year  
10 ends on a date other than December 31, he will send the  
11 assessor a copy of the last preceding federal schedule he  
12 filed.

13 NEW SECTION. Section 6. Business inventory reporting  
14 -- copy of federal schedule. For the purposes of 15-8-301, a  
15 person required to report his business inventory as of  
16 January 1 to the department of revenue may satisfy this  
17 requirement by submitting a copy of the schedule he filed  
18 with the internal revenue service as of that day if the  
19 person reports his federal income taxes on a calendar-year  
20 basis or a copy of the schedule he filed with the internal  
21 revenue service as of a date within the preceding year if  
22 the person reports his federal income taxes on other than a  
23 calendar-year basis. In the latter instance, the business  
24 inventory indicated on the federal schedule is presumed to  
25 be the business inventory in the possession on January 1 of

1 the person reporting it.

2 NEW SECTION. Section 7. Business inventory credit.

3 (1) There is allowed as a credit against the tax imposed by  
4 15-30-103 a credit equal to the amount of the business  
5 inventory tax paid under 15-6-136 by the taxpayer in the  
6 taxpayer's taxable year or \$9,000, whichever is less.

7 (2) If the credit allowed in subsection (1) exceeds  
8 the taxpayer's tax liability for the taxable year, the  
9 taxpayer shall receive from the state a tax refund in the  
10 amount of the excess of the credit over the total tax  
11 liability.

12 (3) No part of the credit may be carried forward or  
13 carried back to taxable years other than the taxable year in  
14 which the taxpayer paid a business inventory tax under  
15 15-6-136.

16 (4) No tax credit is allowed in the taxpayer's taxable  
17 year under subsection (1) if the taxpayer claims a deduction  
18 in the taxable year for the business inventory tax under  
19 15-30-121.

20 NEW SECTION. Section 8. Business inventory credit.

21 (1) There is allowed as a credit against the taxes imposed  
22 by 15-31-101, 15-31-121, and 15-31-122 a credit equal to the  
23 amount of the business inventory tax paid under 15-6-136 by  
24 the taxpayer in the taxpayer's taxable year or \$9,000,  
25 whichever is less.

1 (2) If the credit allowed in subsection (1) exceeds  
2 the taxpayer's tax liability for the taxable year, the  
3 taxpayer shall receive from the state a tax refund in the  
4 amount of the excess of the credit over the total tax  
5 liability.

6 (3) No part of the credit may be carried forward or  
7 carried back to taxable years other than the taxable year in  
8 which the taxpayer paid a business inventory tax under  
9 15-6-136.

10 (4) No tax credit is allowed in the taxpayer's taxable  
11 year under subsection (1) if the taxpayer claims a deduction  
12 in the taxable year for the business inventory tax under  
13 15-31-114.

14 NEW SECTION. Section 9. Codification instructions.

15 (1) Section 7 is intended to be codified as an integral part  
16 of Title 15, chapter 30, and the provisions of Title 15,  
17 chapter 30, apply to section 7.

18 (2) Section 8 is intended to be codified as an  
19 integral part of Title 15, chapter 31, and the provisions of  
20 Title 15, chapter 31, apply to section 8.

21 NEW SECTION. Section 10. Effective date. This act is  
22 effective on passage and approval.

23 NEW SECTION. Section 11. Retroactive application.

24 This act applies retroactively, beginning January 1, 1985.  
25 The intent of the legislature is to continue the taxation of

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1 business inventories with the corresponding tax credit  
2 provided for in Chapter 613, Laws of 1981. Many of the  
3 pertinent provisions of Chapter 613, Laws of 1981, either  
4 terminated or were repealed on January 1, 1983. The  
5 legislature, in declaring the act to be retroactive pursuant  
6 to 1-2-109, intends that business inventories will continue  
7 to be treated the same, without interruption, after December  
8 31, 1982, as they were prior to December 31, 1982.

-End-

## STATE OF MONTANA

REQUEST NO. 294-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 329 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 329 provides fiscal assistance to local governments by reinstating the business inventories tax and provides an income tax or corporate license tax credit up to a maximum of \$9,000 for business inventory taxes paid; and provides an immediate effective date and an applicability date.

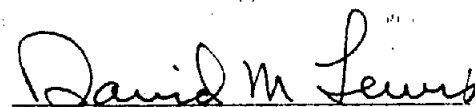
ASSUMPTIONS:

- 1) Individual and corporation tax revenue estimates under current law obtained from projections provided by the Office of Budget and Program Planning.
- 2) 100% of the savings comes from corporations; that is, it is also assumed that no individual would reach the \$9,000 limit.
- 3) The inventory credit claimed is constant over the biennium.
- 4) Revenue to local tax jurisdictions is constant over the biennium.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Individual Income Tax Collections		
Under Current Law	166.427M	175.459M
Under Proposed Law	165.812M	174.844M
Estimated Decrease	<u>(.615M)</u>	<u>(.615M)</u>
Corporate License Tax		
Under Current Law	41.904M	48.817M
Under Proposed Law	40.725M	47.638M
Estimated Decrease	<u>(1.179M)</u>	<u>(1.179M)</u>
TOTAL REVENUE		
Under Current Law	208.331M	224.276M
Under Proposed Law	206.537M	222.482M
Estimated Decrease	<u>(1.794M)</u>	<u>(1.794M)</u>

Continued



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-8-83

General Fund		
Under Current Law	131.347M	141.552M
Under Proposed Law	130.199M	140.404M
Estimated Decrease	<u>(1.148M)</u>	<u>(1.148M)</u>
School Foundation		
Under Current Law	51.308M	55.294M
Under Proposed Law	50.859M	54.845M
Estimated Decrease	<u>(.449M)</u>	<u>(.449M)</u>
Sinking Fund		
Under Current Law	22.575M	24.329M
Under Proposed Law	22.378M	24.132M
Estimated Decrease	<u>(.197M)</u>	<u>(.197M)</u>
Local		
Under Current Law	3.101M	3.101M
Under Proposed Law	3.101M	3.101M
Estimated Decrease	<u>-0-</u>	<u>-0-</u>

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The business inventory property tax may generate between \$8.0 million and \$10.5 million to local tax jurisdictions each year of the biennium, depending on the location of business inventories within the counties. The estimates are based on a model generated by the Research and Information Division.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The effect of the legislation would be to make permanent a temporary revenue source to local tax jurisdictions. The cost to the state may be \$5 million over the subsequent biennium.

TECHNICAL NOTE:

The cost to the state of Montana of the business inventory tax credit derived in this fiscal note should be regarded as a very conservative estimate. A computer listing of corporations filing between July and September, 1982 showed that 331 corporations claimed \$1.446 million in business inventory credits. With the \$9,000 limit, the total cost to the state would be \$.897 million. It is not possible to determine which corporations listed are filing a late return. However, if these totals are added to the \$1.710 million (adjusting for corporations identified as filing late by the Natural Resource and Corporation Tax Division), then the total amount claimed for FY 82 may be as high as \$4 million. The total cost to the state on the corporation side would be \$1.8 million. Given the potential of \$8 million to \$10.5 million in business inventory taxes, the above estimate is likewise conservative.