

HOUSE BILL NO. 250

1/18 Introduced  
1/18 Referred to Taxation  
1/21 Fiscal Note Requested  
1/26 Fiscal Note Received  
2/01 Hearing  
Died in Committee

1 HOUSE BILL NO. 250  
 2 INTRODUCED BY Ramsey, Ryan, Marjorie  
Boomer, Bob, Brown, W. Mark, Heyser, Kevin, Johnson  
 3 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE METHOD

4 FOR DETERMINING THE TAX RATE APPLICABLE TO CERTAIN TYPES OF  
 5 CENTRALLY ASSESSED PROPERTY; DEFINING THE TERM "COMMERCIAL"  
 6 FOR PROPERTY TAX PURPOSES; REQUIRING THE DEPARTMENT OF  
 7 REVENUE TO CONDUCT AUDITS OF COMMERCIAL PROPERTY  
 8 ASSESSMENTS; AMENDING SECTIONS 15-1-101, 15-6-141, AND  
 9 15-8-104, MCA; AND PROVIDING EFFECTIVE DATES."

10  
 11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 15-1-101, MCA, is amended to read:  
 14 "15-1-101. Definitions. (1) When terms mentioned in  
 15 this section are used in connection with taxation, they are  
 16 defined in the following manner:

17 (a) The term "agricultural" refers to the raising of  
 18 livestock, swine, poultry, field crops, fruit, and other  
 19 animal and vegetable matter for food or fiber.

20 (b) The term "assessed value" means the value of  
 21 property as defined in 15-8-111.

22 (c) The term "average wholesale value" means the value  
 23 to a dealer prior to reconditioning and profit margin shown  
 24 in national appraisal guides and manuals or the valuation  
 25 schedules of the department of revenue.

1 (d) The term "commercial", when used to describe  
 2 property, means any property used or owned by a business, a  
 3 trade, or a nonprofit corporation as defined in 35-2-102, or  
 4 used for the production of income.

5 (d)(e) The term "credit" means solvent debts, secured  
 6 or unsecured, owing to a person.

7 (e)(f) The term "improvements" includes all buildings,  
 8 structures, fixtures, fences, and improvements situated  
 9 upon, erected upon, or affixed to land. When the department  
 10 of revenue or its agent determines that the permanency of  
 11 location of a mobile home or housetrailer has been  
 12 established, the mobile home or housetrailer is presumed to  
 13 be an improvement to real property. A mobile home or  
 14 housetrailer may be determined to be permanently located  
 15 only when it is attached to a foundation which cannot  
 16 feasibly be relocated and only when the wheels are removed.

17 (f)(g) The term "leasehold improvements" means  
 18 improvements to mobile homes and mobile homes located on  
 19 land owned by another person. This property is assessed  
 20 under the appropriate classification and the taxes are due  
 21 and payable in two payments as provided in 15-24-202.  
 22 Delinquent taxes on such leasehold improvements are a lien  
 23 only on such leasehold improvements.

24 (g)(h) The term "mobile home" means forms of housing  
 25 known as "trailers", "housetrailers", or "trailer coaches"



1 exceeding 8 feet in width or 45 feet in length, designed to  
 2 be moved from one place to another by an independent power  
 3 connected to them, or any "trailer", "houstrailer", or  
 4 "trailer coach" up to 8 feet in width or 45 feet in length  
 5 used as a principal residence.

6 ~~(h)~~(i) The term "personal property" includes  
 7 everything that is the subject of ownership but that is not  
 8 included within the meaning of the terms "real estate" and  
 9 "improvements".

10 ~~(i)~~(j) The term "poultry" includes all chickens,  
 11 turkeys, geese, ducks, and other birds raised in  
 12 domestication to produce food or feathers.

13 ~~(j)~~(k) The term "property" includes moneys, credits,  
 14 bonds, stocks, franchises, and all other matters and things,  
 15 real, personal, and mixed, capable of private ownership.  
 16 This definition must not be construed to authorize the  
 17 taxation of the stocks of any company or corporation when  
 18 the property of such company or corporation represented by  
 19 the stocks is within the state and has been taxed.

20 ~~(k)~~(l) The term "real estate" includes:

21 (i) the possession of, claim to, ownership of, or  
 22 right to the possession of land;

23 (ii) all mines, minerals, and quarries in and under the  
 24 land subject to the provisions of 15-23-501 and 15-23-801;  
 25 all timber belonging to individuals or corporations growing

1 or being on the lands of the United States; and all rights  
 2 and privileges appertaining thereto.

3 ~~(l)~~(m) The term "taxable value" means the percentage  
 4 of market or assessed value as provided for in 15-6-131  
 5 through 15-6-140.

6 (2) The phrase "municipal corporation" or  
 7 "municipality" or "taxing unit" shall be deemed to include a  
 8 county, city, incorporated town, township, school district,  
 9 irrigation district, drainage district, or any person,  
 10 persons, or organized body authorized by law to establish  
 11 tax levies for the purpose of raising public revenue.

12 (3) The term "state board" or "board" when used  
 13 without other qualification shall mean the state tax appeal  
 14 board."

15 Section 2. Section 15-6-141, MCA, is amended to read:

16 "15-6-141. Class eleven property -- description --  
 17 taxable percentage. (1) Class eleven property includes:

18 (a) centrally assessed electric power companies'  
 19 allocations;

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

23 (c) centrally assessed companies' allocations except:

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

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

4 (iii) property owned by organizations providing  
5 telephone communications to rural areas and classified in  
6 class seven;

7 (d) all railroad transportation property described in  
8 the federal Railroad Revitalization and Regulatory Reform  
9 Act of 1976, as it reads on [the effective date of this  
10 act];

11 (e) all motor carrier transportation property  
12 described in the federal Motor Carrier Act of 1980, as it  
13 reads on [the effective date of this act]; and

14 (f) all airline transportation property described in  
15 the federal Tax Equity and Fiscal Responsibility Act of  
16 1982, as it reads on [the effective date of this act].

17 (2) Class eleven property is taxed as follows:

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

20 (b) Except as provided in 15-23-202, property  
21 described in subsection (1)(c), other than property included  
22 in subsections (1)(d) through (1)(f), is taxed at 15% of  
23 market value.

24 (c) Property described in subsections (1)(d) through  
25 (1)(f) is taxed at the percentage rate "R" to be determined

1 annually by the department of revenue as provided in  
2 subsection (3).

3 (3)  $R = \frac{A}{D} ((A_i)(B_i)(C_i)/D)$  where:

4 (a) R is the taxable percentage applicable to property  
5 included in subsections (1)(d) through (1)(f);

6 (b) in each tax category of commercial property:

7 (i) A<sub>i</sub> is the total statewide market value of the  
8 property;

9 (ii) B<sub>i</sub> is the level of assessment as described in  
10 subsection (4); and

11 (iii) C<sub>i</sub> is the level of taxation as described in  
12 subsection (5); and

13 (c) D is the statewide total market value of all  
14 commercial property.

15 (4) The level of assessment for each tax category of  
16 commercial property is the ratio of the property's total  
17 appraised value to its total true market value.

18 (5) The level of taxation for each tax category of  
19 commercial property is the ratio of the property's total  
20 taxable value to its total true market value. The property's  
21 taxable value is determined by multiplying the total market  
22 value of the property in the tax category by the taxable  
23 percentage applicable to it.

24 (6) For the purpose of complying with the federal  
25 Railroad Revitalization and Regulatory Reform Act of 1976,

1 the federal Motor Carrier Act of 1980, and the federal Tax  
 2 Equity and Fiscal Responsibility Act of 1982, as they read  
 3 on [the effective date of this act]:

4 (a) the rate "R" referred to in subsection (2) is the  
 5 average tax rate generally applicable to commercial and  
 6 industrial property in Montana;

7 (b) the term "commercial", as defined in 15-1-101,  
 8 includes any industrial property used or owned by a business  
 9 or trade or used for the production of income and is  
 10 synonymous with the term "commercial and industrial  
 11 property" as used in each of such federal acts. The term  
 12 does not include property in class one, two, or three or  
 13 property exempt from taxation.

14 (7) The term "tax category" means all property within  
 15 a property tax class that is taxed at the same percentage of  
 16 market value."

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

18 "15-8-104. Department audit of taxable value -- costs  
 19 of audit paid by department. (1) When in the judgment of the  
 20 director of revenue it is necessary, audits may be made for  
 21 the purpose of determining the taxable value of net proceeds  
 22 of mines and oil and gas wells and all other types of  
 23 property subject to ad valorem taxation.

24 (2) The department of revenue shall conduct audits of  
 25 the assessment of all commercial property to assure that the

1 value of such property reasonably reflects market value.

2 ~~†2†~~(3) The cost of the any audit performed under  
 3 subsection (1) or (2) shall be paid by the department."

4 NEW SECTION. Section 4. Extension of authority. (1)  
 5 Any existing authority of the department of revenue to make  
 6 rules on the subject of the provisions of this act is  
 7 extended to the provisions of this act.

8 (2) The department may initiate rulemaking proceedings  
 9 under this section on or after this act is passed and  
 10 approved, but no rule adopted under this section may be made  
 11 effective before January 1, 1986.

12 NEW SECTION. Section 5. Severability. If a part of  
 13 this act is invalid, all valid parts that are severable from  
 14 the invalid part remain in effect. If a part of this act is  
 15 invalid in one or more of its applications, the part remains  
 16 in effect in all valid applications that are severable from  
 17 the invalid applications.

18 NEW SECTION. Section 6. Effective dates. (1) This  
 19 act, except section 4 and this section, is effective January  
 20 1, 1986.

21 (2) Section 4 and this section are effective on  
 22 passage and approval.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN156-85

Form BD-15

In compliance with a written request received January 21, 19 85, there is hereby submitted a Fiscal Note for H.B. 250 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

An act establishing the method for determining the tax rate applicable to certain types of centrally assessed property; defining the term "COMMERCIAL" for property tax purposes; requiring the Department of Revenue to conduct audits of commercial property assessments, and providing effective dates.

ASSUMPTIONS

1. Total statewide taxable value is \$2,408,903,000 in FY1986 and \$2,495,795,000 in FY1987.
2. The weighted average effective mill levy is 192.773 mills; University mill levy is 6 mills; School Foundation Program mill levy is 45 mills.
3. The total school effect is equal to 60% of the change in total property tax.
4. The level of assessment, as described in Section 2 of the proposed bill is equal to 1.00.
5. The bill requires the Department to audit Class 4, 5, 7, 8, 9, 10 and 11 properties (43,000 commercial properties). Assuming 250 audits per FTE can be performed annually, the following alternatives give the estimates of the necessary audit staff and expenditures (@ \$28,050/FTE).

<u>ALTERNATIVE</u>	<u>FTE REQUIRED</u>	<u>SALARY/YEAR</u>
Audit 10% of property annually	17	\$476,850
Audit 20% of property annually	34	\$953,700

David L. Hunter

BUDGET DIRECTOR  
Office of Budget and Program Planning

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6. Bill requires sales/assessment ratio studies in classes 4, 5, 7, 8, 9, 10, 11, 12.

The following presents an estimate of the expenditures for annual studies.

2 statisticians Gr. 15	\$54,000
1 typist Gr. 8	16,000
computer time	75,000
data entry	20,000
programmer Gr. 15	27,000
postage	10,000
phone	10,000
overhead	10,000
	<u>\$222,000</u>

EFFECT ON REVENUE

	<u>Under</u> <u>Current Law</u>	<u>FY86</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Under</u> <u>Current Law</u>	<u>FY87</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
University Levy School Foundation Program		N/A		\$ 14,974,770	\$ 15,018,836	\$ 44,066
TOTAL REVENUE				<u>\$127,285,545</u>	<u>\$127,660,107</u>	<u>\$374,562</u>

LONG-RANGE EFFECTS

Assessment ratios for commercial property will decline each year of an appraisal cycle (assuming appreciation in property values). Declining assessment ratios reduce the tax rate on railroad and airline properties. Consequently, the taxable value of these properties is expected to decline each year of the appraisal cycle, all other things being equal.

(Continued)

LONG-RANGE EFFECTS (Continued)

For example, the fiscal impacts presented assume that assessed values equal market values for all commercial property. However, for each drop of .1 in the assessment level, it is estimated that taxable values fall by \$4,577,497. This results in the following schedule of changes in taxable value for various levels of assessment:

<u>ASSESSMENT LEVEL</u>	<u>CHANGE IN TAXABLE VALUE</u>
1.00	7,344,346
.90	2,766,849
.80	(1,810,649)
.70	(6,388,146)

TECHNICAL OR MECHANICAL DEFECTS

1. The description of the tax rate formula for railroad and airline property could be clarified. The subscript *i* is not defined and therefore it is not clear whether the formula is to be summed over individual parcels, aggregated commercial property types or property classes. Similarly, a roster of property types to be used in the formula would be helpful and would eliminate confusion.
2. The bill apparently contemplates a sales ratio study that covers commercial personal property. However, it is not known whether such a study is feasible. Arms-length transactions of many types of commercial properties are rarely observed. For frequently traded properties (implying a value exists) there is no statutory mechanism for collecting the sale information. These observations imply that a sales ratio study for personal property, if feasible, would be extremely costly.
3. The proposed legislation calls for the inclusion of "all motor carrier transportation property described in the federal Motor Carrier Act of 1982...". It is presumed that this includes freight line company property. However, existing legislation provides that "Every freight line company shall pay annually for each calendar year a sum in the nature of a tax in the amount of 5½% of the total gross earnings... which shall be in lieu of all other taxes upon such property of any freight line company so paying same,..." (MCA, 15-55-102). Furthermore, the department does not have readily available market value data for motor carriers as it does for airlines and railroads.