

HOUSE BILL NO. 425

1/23 Introduced  
1/23 Referred to Judiciary  
1/28 Hearing  
1/28 Committee Report-Bill Do Pass  
1/30 2nd Reading Pass  
1/31 3rd Reading Pass

Transmitted to Senate

2/04 Referred to Judiciary  
3/13 Hearing  
3/13 Rereferred to Taxation  
3/29 Hearing  
4/08 Committee Report-Bill Concurred  
4/09 Rereferred to Taxation  
4/15 Tabled in Committee

1 HOUSE BILL NO. 425  
2 INTRODUCED BY *Spalding*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES  
5 ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS  
6 IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL  
7 PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON  
8 ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111,  
9 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN  
10 APPLICABILITY DATE."

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 "credit" means solvent debts, secured or  
2 unsecured, owing to a person.

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

13 (f) The term "leasehold improvements" means  
14 improvements ~~to--mobile--homes~~ and mobile homes located on  
15 land owned by another person. This property is assessed  
16 under the appropriate classification, and the taxes are due  
17 and payable in two payments as provided in 15-24-202.  
18 Delinquent taxes on such leasehold improvements are a lien  
19 only on such the leasehold improvements, as if they were  
20 personal property for purposes of collecting property taxes  
21 and on all personal property in the possession of the person  
22 assessed on and after the date of assessment.

23 (g) The term "mobile home" means forms of housing  
24 known as "trailers", "housetrailers", or "trailer coaches"  
25 exceeding 8 feet in width or 45 feet in length, designed to



-2-  
INTRODUCED BILL  
HB 425

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

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

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

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

19 (k) The term "real estate" includes:

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

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

1 and privileges appertaining thereto.

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

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

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

14 Section 2. Section 15-16-101, MCA, is amended to read:

15 "15-16-101. Treasurer to publish notice -- manner of  
16 publication. (1) Within 10 days after the receipt of the  
17 assessment book, the county treasurer must publish a notice  
18 specifying:

19 (a) that one-half of all taxes levied and assessed  
20 will be due and payable before 5 p.m. on November 30 next  
21 thereafter and that unless paid prior thereto the amount  
22 then due will be delinquent and will draw interest at the  
23 rate of 5/6 of 1% per month from and after such delinquency  
24 until paid and 2% will be added to the delinquent taxes as a  
25 penalty;

1 (b) that one-half of all taxes levied and assessed  
 2 will be due and payable on or before 5 p.m. on May 31 next  
 3 thereafter and that unless paid prior to said date said  
 4 taxes will be delinquent and will draw interest at the rate  
 5 of 5/6 of 1% per month from and after such delinquency until  
 6 paid and 2% will be added to the delinquent taxes as a  
 7 penalty; and

8 (c) the time and place at which payment of taxes may  
 9 be made.

10 (2) He must send to the last-known address of each  
 11 taxpayer written notice, postage prepaid, showing the amount  
 12 of taxes and assessments due the current year and the amount  
 13 due and delinquent for other years. The written notice shall  
 14 include:

- 15 (a) the taxable value of the property;
- 16 (b) the total mill levy applied to that taxable value;
- 17 (c) the value of each mill in that county;
- 18 (d) itemized city services and special improvement  
 19 district assessments collected by the county;
- 20 (e) the number of the school district in which the  
 21 property is located; and
- 22 (f) the amount of the total tax due that is levied as  
 23 city tax, county tax, state tax, school district tax, and  
 24 other tax; and
- 25 (g) if the taxable property includes leasehold

1 improvements, a statement that delinquent taxes on leasehold  
 2 improvements are a lien on the leasehold improvements as if  
 3 they were personal property for purposes of collecting  
 4 property taxes and on all personal property in the  
 5 possession of the person assessed on and after the date of  
 6 assessment.

7 (3) The municipality shall, upon request of the county  
 8 treasurer, provide the information to be included under  
 9 subsection (2)(d) ready for mailing.

10 (4) The notice in every case must be published for 2  
 11 weeks in some weekly or daily newspaper published in the  
 12 county, if there is one, or if there is not, then by posting  
 13 it in three public places. The failure to publish or post  
 14 notices does not relieve the taxpayer from any of his  
 15 liabilities. Any failure to give notice of the tax due for  
 16 the current year or of delinquent tax will not affect the  
 17 legality of the tax."

18 Section 3. Section 15-16-111, MCA, is amended to read:  
 19 "15-16-111. Personal Leasehold improvements and  
 20 personal property -- duty of department. (1) It shall be  
 21 the duty of the department of revenue or its agent, upon  
 22 discovery of any leasehold improvements or personal property  
 23 in the county the taxes upon which are not a lien upon real  
 24 property sufficient to secure the payment of such taxes, to  
 25 immediately and in any event not more than 5 days thereafter

1 make a report to the treasurer, setting forth the nature,  
 2 kind, description, and character of such property in such a  
 3 definite manner that the treasurer can identify the same,  
 4 the amount and assessed valuation of such property, where  
 5 the same is located, the amount of taxes due thereon, and  
 6 the name and address of the owner, claimant, or other person  
 7 in possession of the same.

8 (2) Where such leasehold improvements or personal  
 9 property is located in any city or town which shall have  
 10 provided by ordinance for the collection of its taxes for  
 11 general, municipal, and administrative purposes by its city  
 12 treasurer or town clerk, the department also and at the same  
 13 time shall furnish to said city treasurer or town clerk a  
 14 duplicate of such notice to the county treasurer. For the  
 15 purpose of determining the taxes due on such leasehold  
 16 improvements or personal property, the department or its  
 17 agent must use the levy made during the previous year."

18 Section 4. Section 15-16-402, MCA, is amended to read:

19 "15-16-402. Tax on personalty lien on realty --  
 20 separate assessment -- leasehold improvements. (1) Every tax  
 21 due upon personal property is a prior lien upon any or all  
 22 of such property, which lien shall have precedence over any  
 23 other lien, claim, or demand upon such property, and except  
 24 as hereinafter provided, every tax upon personal property is  
 25 also a lien upon the real property of the owner thereof from

1 and after 12 midnight of January 1 in each year.

2 (2) The taxes upon personal property based upon a  
 3 taxable value up to and including \$1,000 shall be a first  
 4 and prior lien upon the real property of the owner of such  
 5 personal property. Taxes upon personal property based upon  
 6 the taxable value thereof in excess of \$1,000 shall be a  
 7 first and prior lien upon the real property of the owner  
 8 unless the owner or holder of any mortgage or other lien  
 9 upon said real property appearing of record in the office of  
 10 the clerk and recorder of the county where such real  
 11 property is situated, at or before the time such personal  
 12 property tax attached thereto, shall have filed the notice  
 13 hereinafter provided for, in which event the taxes upon such  
 14 excess of \$1,000 of taxable value shall not be a lien on the  
 15 real property of such owner. It shall be the duty of the  
 16 county treasurer to issue to any mortgagee or lien holder,  
 17 upon his request, a statement of the personal property tax  
 18 due upon the taxable value up to and including \$1,000.  
 19 Personal property taxes upon a taxable value up to \$1,000  
 20 may be paid, redeemed from a tax sale as by law provided, or  
 21 discharged separately from any personal property taxes in  
 22 excess of such amount. Payment of such taxes upon a taxable  
 23 value up to \$1,000, as herein provided, shall operate to  
 24 discharge the tax lien upon the personal property of the  
 25 owner to the extent of such payment in the order that the

1 person paying such tax shall direct.

2 (3) The holder of any mortgage or lien upon real  
3 property who desires to obtain the benefits of this section  
4 shall file in the office of the county treasurer of said  
5 county a notice giving:

6 (a) the name and address of the mortgagee and holder  
7 of the mortgage or lien;

8 (b) the name of the reputed owner of the land;

9 (c) the description of the land;

10 (d) the date of record and expiration of the mortgage  
11 or lien;

12 (e) the amount thereof; and

13 (f) a statement that he claims the benefit of the  
14 provisions of this section.

15 (4) Such notice shall be ineffectual as to any taxes  
16 which shall have become a lien on real property prior to the  
17 filing of such notice as aforesaid. If the mortgage be not  
18 paid at maturity, such notice shall thereafter be filed  
19 annually unless the mortgage be extended for a definite  
20 period to be stated in such notice.

21 (5) Any owner of a mortgage on real estate upon which  
22 personal property taxes are by this section made a lien,  
23 where the owner of such real estate and personal property  
24 has failed to pay taxes due upon such real estate and  
25 personal property for 1 or more years, may file with the

1 department of revenue or its agent in the county in which  
2 such property is located a written request to have the  
3 personal property and real estate of the owner separately  
4 assessed. Such request must be made by registered or  
5 certified mail at least 10 days prior to January 1 in the  
6 year for which property is assessed. Upon receipt by the  
7 department or its agent of such request, it is hereby made  
8 the duty of the department or its agent to make a separate  
9 assessment of real and personal property of the owner  
10 thereof, and such personal taxes shall not be a lien upon  
11 the real estate so mortgaged of the owner thereof, and the  
12 personal property taxes shall be collected in the manner  
13 provided by law for other personal property.

14 (6) For purposes of collecting taxes, leasehold  
15 improvements are considered to be personal property."

16 Section 5. Section 15-16-503, MCA, is amended to read:  
17 "15-16-503. Collection by suit of personal property  
18 taxes when taxpayer moves to another county. If any person  
19 removes from one county to another after being assessed on  
20 leasehold improvements or personal property, the treasurer  
21 of the county in which he was assessed may sue for and  
22 collect the same in the name of the county where the  
23 assessment was made."

24 Section 6. Section 15-17-901, MCA, is amended to read:  
25 "15-17-901. Sale of leasehold improvements or personal

1 property for delinquent taxes. (1) The tax on leasehold  
 2 improvements or personal property may be collected and the  
 3 payment thereof enforced by the seizure and sale of the  
 4 leasehold improvements or any personal property in the  
 5 possession of the person assessed at any time after the date  
 6 the assessment is made or by the institution of a civil  
 7 action for its collection in any court of competent  
 8 jurisdiction. A resort to any one of the methods provided  
 9 for does not bar the right to resort to either or both of  
 10 the other methods. Any of the methods provided for may be  
 11 used until the full amount of the tax is collected.

12 (2) The provisions of this part and 15-16-113 apply to  
 13 such seizure and sale.

14 (3) The sale must be at public auction and of a  
 15 sufficient amount of the property to pay the taxes,  
 16 percentages, and costs.

17 (4) For seizing or selling leasehold improvements or  
 18 personal property, the treasurer may charge in each case the  
 19 sum of \$3 for the use of the county and the same mileage as  
 20 is allowed by law to the sheriff of the county and  
 21 reasonable expenses for seizing, handling, keeping, or  
 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property  
 24 sold, the delivery thereof, with a bill of sale, vests the  
 25 title thereto in the purchaser."

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

5 NEW SECTION. Section 8. Applicability. This act  
 6 applies to taxable years beginning after December 31, 1985.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 425

INTRODUCED BY

*Spauld*

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111, 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

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

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

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

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

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

(f) The term "leasehold improvements" means improvements to ~~mobile~~ homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such the leasehold improvements; as if they were personal property for purposes of collecting property taxes and on all personal property in the possession of the person assessed on and after the date of assessment.

(g) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to



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

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

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

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

19 (k) The term "real estate" includes:

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

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

1 and privileges appertaining thereto.

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

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

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

14 Section 2. Section 15-16-101, MCA, is amended to read:  
15 "15-16-101. Treasurer to publish notice -- manner of  
16 publication. (1) Within 10 days after the receipt of the  
17 assessment book, the county treasurer must publish a notice  
18 specifying:

19 (a) that one-half of all taxes levied and assessed  
20 will be due and payable before 5 p.m. on November 30 next  
21 thereafter and that unless paid prior thereto the amount  
22 then due will be delinquent and will draw interest at the  
23 rate of 5/6 of 1% per month from and after such delinquency  
24 until paid and 2% will be added to the delinquent taxes as a  
25 penalty;

1 (b) that one-half of all taxes levied and assessed  
2 will be due and payable on or before 5 p.m. on May 31 next  
3 thereafter and that unless paid prior to said date said  
4 taxes will be delinquent and will draw interest at the rate  
5 of 5/6 of 1% per month from and after such delinquency until  
6 paid and 2% will be added to the delinquent taxes as a  
7 penalty; and

8 (c) the time and place at which payment of taxes may  
9 be made.

10 (2) He must send to the last-known address of each  
11 taxpayer written notice, postage prepaid, showing the amount  
12 of taxes and assessments due the current year and the amount  
13 due and delinquent for other years. The written notice shall  
14 include:

15 (a) the taxable value of the property;

16 (b) the total mill levy applied to that taxable value;

17 (c) the value of each mill in that county;

18 (d) itemized city services and special improvement  
19 district assessments collected by the county;

20 (e) the number of the school district in which the  
21 property is located; and

22 (f) the amount of the total tax due that is levied as  
23 city tax, county tax, state tax, school district tax, and  
24 other tax; and

25 (g) if the taxable property includes leasehold

1 improvements, a statement that delinquent taxes on leasehold  
2 improvements are a lien on the leasehold improvements as if  
3 they were personal property for purposes of collecting  
4 property taxes and on all personal property in the  
5 possession of the person assessed on and after the date of  
6 assessment.

7 (3) The municipality shall, upon request of the county  
8 treasurer, provide the information to be included under  
9 subsection (2)(d) ready for mailing.

10 (4) The notice in every case must be published for 2  
11 weeks in some weekly or daily newspaper published in the  
12 county, if there is one, or if there is not, then by posting  
13 it in three public places. The failure to publish or post  
14 notices does not relieve the taxpayer from any of his  
15 liabilities. Any failure to give notice of the tax due for  
16 the current year or of delinquent tax will not affect the  
17 legality of the tax."

18 Section 3. Section 15-16-111, MCA, is amended to read:

19 "15-16-111. Personal Leasehold improvements and  
20 personal property -- duty of department. (1) It shall be  
21 the duty of the department of revenue or its agent, upon  
22 discovery of any leasehold improvements or personal property  
23 in the county the taxes upon which are not a lien upon real  
24 property sufficient to secure the payment of such taxes, to  
25 immediately and in any event not more than 5 days thereafter

1 make a report to the treasurer, setting forth the nature,  
 2 kind, description, and character of such property in such a  
 3 definite manner that the treasurer can identify the same,  
 4 the amount and assessed valuation of such property, where  
 5 the same is located, the amount of taxes due thereon, and  
 6 the name and address of the owner, claimant, or other person  
 7 in possession of the same.

8 (2) Where such leasehold improvements or personal  
 9 property is located in any city or town which shall have  
 10 provided by ordinance for the collection of its taxes for  
 11 general, municipal, and administrative purposes by its city  
 12 treasurer or town clerk, the department also and at the same  
 13 time shall furnish to said city treasurer or town clerk a  
 14 duplicate of such notice to the county treasurer. For the  
 15 purpose of determining the taxes due on such leasehold  
 16 improvements or personal property, the department or its  
 17 agent must use the levy made during the previous year."

18 Section 4. Section 15-16-402, MCA, is amended to read:

19 "15-16-402. Tax on personalty lien on realty --  
 20 separate assessment -- leasehold improvements. (1) Every tax  
 21 due upon personal property is a prior lien upon any or all  
 22 of such property, which lien shall have precedence over any  
 23 other lien, claim, or demand upon such property, and except  
 24 as hereinafter provided, every tax upon personal property is  
 25 also a lien upon the real property of the owner thereof from

1 and after 12 midnight of January 1 in each year.

2 (2) The taxes upon personal property based upon a  
 3 taxable value up to and including \$1,000 shall be a first  
 4 and prior lien upon the real property of the owner of such  
 5 personal property. Taxes upon personal property based upon  
 6 the taxable value thereof in excess of \$1,000 shall be a  
 7 first and prior lien upon the real property of the owner  
 8 unless the owner or holder of any mortgage or other lien  
 9 upon said real property appearing of record in the office of  
 10 the clerk and recorder of the county where such real  
 11 property is situated, at or before the time such personal  
 12 property tax attached thereto, shall have filed the notice  
 13 hereinafter provided for, in which event the taxes upon such  
 14 excess of \$1,000 of taxable value shall not be a lien on the  
 15 real property of such owner. It shall be the duty of the  
 16 county treasurer to issue to any mortgagee or lien holder,  
 17 upon his request, a statement of the personal property tax  
 18 due upon the taxable value up to and including \$1,000.  
 19 Personal property taxes upon a taxable value up to \$1,000  
 20 may be paid, redeemed from a tax sale as by law provided, or  
 21 discharged separately from any personal property taxes in  
 22 excess of such amount. Payment of such taxes upon a taxable  
 23 value up to \$1,000, as herein provided, shall operate to  
 24 discharge the tax lien upon the personal property of the  
 25 owner to the extent of such payment in the order that the

1 person paying such tax shall direct.

2 (3) The holder of any mortgage or lien upon real  
3 property who desires to obtain the benefits of this section  
4 shall file in the office of the county treasurer of said  
5 county a notice giving:

6 (a) the name and address of the mortgagee and holder  
7 of the mortgage or lien;

8 (b) the name of the reputed owner of the land;

9 (c) the description of the land;

10 (d) the date of record and expiration of the mortgage  
11 or lien;

12 (e) the amount thereof; and

13 (f) a statement that he claims the benefit of the  
14 provisions of this section.

15 (4) Such notice shall be ineffectual as to any taxes  
16 which shall have become a lien on real property prior to the  
17 filing of such notice as aforesaid. If the mortgage be not  
18 paid at maturity, such notice shall thereafter be filed  
19 annually unless the mortgage be extended for a definite  
20 period to be stated in such notice.

21 (5) Any owner of a mortgage on real estate upon which  
22 personal property taxes are by this section made a lien,  
23 where the owner of such real estate and personal property  
24 has failed to pay taxes due upon such real estate and  
25 personal property for 1 or more years, may file with the

1 department of revenue or its agent in the county in which  
2 such property is located a written request to have the  
3 personal property and real estate of the owner separately  
4 assessed. Such request must be made by registered or  
5 certified mail at least 10 days prior to January 1 in the  
6 year for which property is assessed. Upon receipt by the  
7 department or its agent of such request, it is hereby made  
8 the duty of the department or its agent to make a separate  
9 assessment of real and personal property of the owner  
10 thereof, and such personal taxes shall not be a lien upon  
11 the real estate so mortgaged of the owner thereof, and the  
12 personal property taxes shall be collected in the manner  
13 provided by law for other personal property.

14 (6) For purposes of collecting taxes, leasehold  
15 improvements are considered to be personal property."

16 Section 5. Section 15-16-503, MCA, is amended to read:  
17 "15-16-503. Collection by suit of personal property  
18 taxes when taxpayer moves to another county. If any person  
19 removes from one county to another after being assessed on  
20 leasehold improvements or personal property, the treasurer  
21 of the county in which he was assessed may sue for and  
22 collect the same in the name of the county where the  
23 assessment was made."

24 Section 6. Section 15-17-901, MCA, is amended to read:  
25 "15-17-901. Sale of leasehold improvements or personal

1 property for delinquent taxes. (1) The tax on leasehold  
 2 improvements or personal property may be collected and the  
 3 payment thereof enforced by the seizure and sale of the  
 4 leasehold improvements or any personal property in the  
 5 possession of the person assessed at any time after the date  
 6 the assessment is made or by the institution of a civil  
 7 action for its collection in any court of competent  
 8 jurisdiction. A resort to any one of the methods provided  
 9 for does not bar the right to resort to either or both of  
 10 the other methods. Any of the methods provided for may be  
 11 used until the full amount of the tax is collected.

12 (2) The provisions of this part and 15-16-113 apply to  
 13 such seizure and sale.

14 (3) The sale must be at public auction and of a  
 15 sufficient amount of the property to pay the taxes,  
 16 percentages, and costs.

17 (4) For seizing or selling leasehold improvements or  
 18 personal property, the treasurer may charge in each case the  
 19 sum of \$3 for the use of the county and the same mileage as  
 20 is allowed by law to the sheriff of the county and  
 21 reasonable expenses for seizing, handling, keeping, or  
 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property  
 24 sold, the delivery thereof, with a bill of sale, vests the  
 25 title thereto in the purchaser."

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

5 NEW SECTION. Section 8. Applicability. This act  
 6 applies to taxable years beginning after December 31, 1985.

-End-

HOUSE BILL NO. 425

INTRODUCED BY

*Spaeth*

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING DELINQUENT TAXES ON LEASEHOLD IMPROVEMENTS A LIEN UPON THOSE IMPROVEMENTS AS IF THEY WERE PERSONAL PROPERTY AND UPON ALL PERSONAL PROPERTY AND REAL PROPERTY IN POSSESSION OF THE PERSON ASSESSED; AMENDING SECTIONS 15-1-101, 15-16-101, 15-16-111, 15-16-402, 15-16-503, AND 15-17-901, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

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

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

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

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

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

(f) The term "leasehold improvements" means improvements to--mobile--homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such the leasehold improvements; as if they were personal property for purposes of collecting property taxes and on all personal property in the possession of the person assessed on and after the date of assessment.

(g) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to

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

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

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

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

19 (k) The term "real estate" includes:

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

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

1 and privileges appertaining thereto.

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

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

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

14 Section 2. Section 15-16-101, MCA, is amended to read:

15 "15-16-101. Treasurer to publish notice -- manner of  
 16 publication. (1) Within 10 days after the receipt of the  
 17 assessment book, the county treasurer must publish a notice  
 18 specifying:

19 (a) that one-half of all taxes levied and assessed  
 20 will be due and payable before 5 p.m. on November 30 next  
 21 thereafter and that unless paid prior thereto the amount  
 22 then due will be delinquent and will draw interest at the  
 23 rate of 5/6 of 1% per month from and after such delinquency  
 24 until paid and 2% will be added to the delinquent taxes as a  
 25 penalty;

1 (b) that one-half of all taxes levied and assessed  
 2 will be due and payable on or before 5 p.m. on May 31 next  
 3 thereafter and that unless paid prior to said date said  
 4 taxes will be delinquent and will draw interest at the rate  
 5 of 5/6 of 1% per month from and after such delinquency until  
 6 paid and 2% will be added to the delinquent taxes as a  
 7 penalty; and

8 (c) the time and place at which payment of taxes may  
 9 be made.

10 (2) He must send to the last-known address of each  
 11 taxpayer written notice, postage prepaid, showing the amount  
 12 of taxes and assessments due the current year and the amount  
 13 due and delinquent for other years. The written notice shall  
 14 include:

- 15 (a) the taxable value of the property;  
 16 (b) the total mill levy applied to that taxable value;  
 17 (c) the value of each mill in that county;  
 18 (d) itemized city services and special improvement  
 19 district assessments collected by the county;  
 20 (e) the number of the school district in which the  
 21 property is located; and  
 22 (f) the amount of the total tax due that is levied as  
 23 city tax, county tax, state tax, school district tax, and  
 24 other tax; and  
 25 (g) if the taxable property includes leasehold

1 improvements, a statement that delinquent taxes on leasehold  
 2 improvements are a lien on the leasehold improvements as if  
 3 they were personal property for purposes of collecting  
 4 property taxes and on all personal property in the  
 5 possession of the person assessed on and after the date of  
 6 assessment.

7 (3) The municipality shall, upon request of the county  
 8 treasurer, provide the information to be included under  
 9 subsection (2)(d) ready for mailing.

10 (4) The notice in every case must be published for 2  
 11 weeks in some weekly or daily newspaper published in the  
 12 county, if there is one, or if there is not, then by posting  
 13 it in three public places. The failure to publish or post  
 14 notices does not relieve the taxpayer from any of his  
 15 liabilities. Any failure to give notice of the tax due for  
 16 the current year or of delinquent tax will not affect the  
 17 legality of the tax."

18 Section 3. Section 15-16-111, MCA, is amended to read:  
 19 "15-16-111. Personal Leasehold improvements and  
 20 personal property -- duty of department. (1) It shall be  
 21 the duty of the department of revenue or its agent, upon  
 22 discovery of any leasehold improvements or personal property  
 23 in the county the taxes upon which are not a lien upon real  
 24 property sufficient to secure the payment of such taxes, to  
 25 immediately and in any event not more than 5 days thereafter



1 make a report to the treasurer, setting forth the nature,  
 2 kind, description, and character of such property in such a  
 3 definite manner that the treasurer can identify the same,  
 4 the amount and assessed valuation of such property, where  
 5 the same is located, the amount of taxes due thereon, and  
 6 the name and address of the owner, claimant, or other person  
 7 in possession of the same.

8 (2) Where such leasehold improvements or personal  
 9 property is located in any city or town which shall have  
 10 provided by ordinance for the collection of its taxes for  
 11 general, municipal, and administrative purposes by its city  
 12 treasurer or town clerk, the department also and at the same  
 13 time shall furnish to said city treasurer or town clerk a  
 14 duplicate of such notice to the county treasurer. For the  
 15 purpose of determining the taxes due on such leasehold  
 16 improvements or personal property, the department or its  
 17 agent must use the levy made during the previous year."

18 Section 4. Section 15-16-402, MCA, is amended to read:

19 "15-16-402. Tax on personalty lien on realty --  
 20 separate assessment -- leasehold improvements. (1) Every tax  
 21 due upon personal property is a prior lien upon any or all  
 22 of such property, which lien shall have precedence over any  
 23 other lien, claim, or demand upon such property, and except  
 24 as hereinafter provided, every tax upon personal property is  
 25 also a lien upon the real property of the owner thereof from

1 and after 12 midnight of January 1 in each year.

2 (2) The taxes upon personal property based upon a  
 3 taxable value up to and including \$1,000 shall be a first  
 4 and prior lien upon the real property of the owner of such  
 5 personal property. Taxes upon personal property based upon  
 6 the taxable value thereof in excess of \$1,000 shall be a  
 7 first and prior lien upon the real property of the owner  
 8 unless the owner or holder of any mortgage or other lien  
 9 upon said real property appearing of record in the office of  
 10 the clerk and recorder of the county where such real  
 11 property is situated, at or before the time such personal  
 12 property tax attached thereto, shall have filed the notice  
 13 hereinafter provided for, in which event the taxes upon such  
 14 excess of \$1,000 of taxable value shall not be a lien on the  
 15 real property of such owner. It shall be the duty of the  
 16 county treasurer to issue to any mortgagee or lien holder,  
 17 upon his request, a statement of the personal property tax  
 18 due upon the taxable value up to and including \$1,000.  
 19 Personal property taxes upon a taxable value up to \$1,000  
 20 may be paid, redeemed from a tax sale as by law provided, or  
 21 discharged separately from any personal property taxes in  
 22 excess of such amount. Payment of such taxes upon a taxable  
 23 value up to \$1,000, as herein provided, shall operate to  
 24 discharge the tax lien upon the personal property of the  
 25 owner to the extent of such payment in the order that the

1 person paying such tax shall direct.

2 (3) The holder of any mortgage or lien upon real  
3 property who desires to obtain the benefits of this section  
4 shall file in the office of the county treasurer of said  
5 county a notice giving:

6 (a) the name and address of the mortgagee and holder  
7 of the mortgage or lien;

8 (b) the name of the reputed owner of the land;

9 (c) the description of the land;

10 (d) the date of record and expiration of the mortgage  
11 or lien;

12 (e) the amount thereof; and

13 (f) a statement that he claims the benefit of the  
14 provisions of this section.

15 (4) Such notice shall be ineffectual as to any taxes  
16 which shall have become a lien on real property prior to the  
17 filing of such notice as aforesaid. If the mortgage be not  
18 paid at maturity, such notice shall thereafter be filed  
19 annually unless the mortgage be extended for a definite  
20 period to be stated in such notice.

21 (5) Any owner of a mortgage on real estate upon which  
22 personal property taxes are by this section made a lien,  
23 where the owner of such real estate and personal property  
24 has failed to pay taxes due upon such real estate and  
25 personal property for 1 or more years, may file with the

1 department of revenue or its agent in the county in which  
2 such property is located a written request to have the  
3 personal property and real estate of the owner separately  
4 assessed. Such request must be made by registered or  
5 certified mail at least 10 days prior to January 1 in the  
6 year for which property is assessed. Upon receipt by the  
7 department or its agent of such request, it is hereby made  
8 the duty of the department or its agent to make a separate  
9 assessment of real and personal property of the owner  
10 thereof, and such personal taxes shall not be a lien upon  
11 the real estate so mortgaged of the owner thereof, and the  
12 personal property taxes shall be collected in the manner  
13 provided by law for other personal property.

14 (6) For purposes of collecting taxes, leasehold  
15 improvements are considered to be personal property."

16 Section 5. Section 15-16-503, MCA, is amended to read:  
17 "15-16-503. Collection by suit of personal property  
18 taxes when taxpayer moves to another county. If any person  
19 removes from one county to another after being assessed on  
20 leasehold improvements or personal property, the treasurer  
21 of the county in which he was assessed may sue for and  
22 collect the same in the name of the county where the  
23 assessment was made."

24 Section 6. Section 15-17-901, MCA, is amended to read:  
25 "15-17-901. Sale of leasehold improvements or personal

1 property for delinquent taxes. (1) The tax on leasehold  
 2 improvements or personal property may be collected and the  
 3 payment thereof enforced by the seizure and sale of the  
 4 leasehold improvements or any personal property in the  
 5 possession of the person assessed at any time after the date  
 6 the assessment is made or by the institution of a civil  
 7 action for its collection in any court of competent  
 8 jurisdiction. A resort to any one of the methods provided  
 9 for does not bar the right to resort to either or both of  
 10 the other methods. Any of the methods provided for may be  
 11 used until the full amount of the tax is collected.

12 (2) The provisions of this part and 15-16-113 apply to  
 13 such seizure and sale.

14 (3) The sale must be at public auction and of a  
 15 sufficient amount of the property to pay the taxes,  
 16 percentages, and costs.

17 (4) For seizing or selling leasehold improvements or  
 18 personal property, the treasurer may charge in each case the  
 19 sum of \$3 for the use of the county and the same mileage as  
 20 is allowed by law to the sheriff of the county and  
 21 reasonable expenses for seizing, handling, keeping, or  
 22 caring for any property so seized or sold.

23 (5) On the payment of the price bid for any property  
 24 sold, the delivery thereof, with a bill of sale, vests the  
 25 title thereto in the purchaser."

1 NEW SECTION. Section 7. Extension of authority. Any  
 2 existing authority of the department of revenue to make  
 3 rules on the subject of the provisions of this act is  
 4 extended to the provisions of this act.  
 5 NEW SECTION. Section 8. Applicability. This act  
 6 applies to taxable years beginning after December 31, 1985.

-End-