

HOUSE BILL NO 839

2/15 Introduced
2/15 Referred to Taxation
2/15 Fiscal Note Requested
2/21 Fiscal Note Received
3/06 Hearing
Died in Committee

HOUSE BILL NO. 839

INTRODUCED BY

Ellison B. Lewis
Reddy

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A FEE IN LIEU OF PROPERTY TAX ON AIRCRAFT OTHER THAN SCHEDULED AIRLINE AIRCRAFT; BASING THE FEE ON THE AGE AND TYPE OF AIRCRAFT; PROVIDING FOR DISPOSITION OF THE FEE; AMENDING SECTIONS 15-6-138, 15-6-210, 15-8-111, 67-3-201, AND 67-3-202, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. 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;
- (b) all mining machinery, fixtures, equipment, tools, and supplies except:
 - (i) those included in class five; and
 - (ii) coal and ore haulers;
- (c) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;
- (d) motorcycles;
- (e) watercraft;
- (f) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee

in lieu of property tax;

~~(g)~~--aircraft;

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

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

~~(j)~~(i) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class; and

~~(k)~~(j) all other machinery except that specifically included in another class.

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

Section 2. Section 15-6-210, MCA, is amended to read:

"15-6-210. Antique aircraft exempt -- application procedure. (1) Aircraft 40 years old or older and not regularly used for transportation are exempt from property taxation and the fee in lieu of tax provided for in [section 6].

(2) To apply for this exemption, the owner shall file a signed application with the department of revenue containing:

- (a) the name and address of the owner;
- (b) a description of the aircraft;
- (c) a statement that the aircraft is not regularly used for transportation."

Section 3. Section 15-8-111, MCA, is amended to read:



1 "15-8-111. Assessment -- market value standard --
 2 exceptions. (1) All taxable property must be assessed at
 3 100% of its market value except as provided in subsection
 4 (5) of this section and in 15-7-111 through 15-7-114.

5 (2) (a) Market value is the value at which property
 6 would change hands between a willing buyer and a willing
 7 seller, neither being under any compulsion to buy or to sell
 8 and both having reasonable knowledge of relevant facts.

9 (b) The market value of all motor trucks; agricultural
 10 tools, implements, and machinery; and vehicles of all kinds,
 11 including but not limited to motorcycles, ~~aircraft~~, and
 12 boats and all watercraft, is the average wholesale value
 13 shown in national appraisal guides and manuals or the value
 14 of the vehicle before reconditioning and profit margin. The
 15 department of revenue shall prepare valuation schedules
 16 showing the average wholesale value when no national
 17 appraisal guide exists.

18 (3) The department of revenue or its agents may not
 19 adopt a lower or different standard of value from market
 20 value in making the official assessment and appraisal of the
 21 value of property in 15-6-134 through 15-6-140. For
 22 purposes of taxation, assessed value is the same as
 23 appraised value.

24 (4) The taxable value for all property in classes four
 25 through eleven is the percentage of market value established

1 for each class of property in 15-6-134 through 15-6-141.

2 (5) The assessed value of properties in 15-6-131
 3 through 15-6-133 is as follows:

4 (a) Properties in 15-6-131, under class one, are
 5 assessed at 100% of the annual net proceeds after deducting
 6 the expenses specified and allowed by 15-23-503.

7 (b) Properties in 15-6-132 under class two are
 8 assessed at 100% of the annual gross proceeds.

9 (c) Properties in 15-6-133, under class three, are
 10 assessed at 100% of the productive capacity of the lands
 11 when valued for agricultural purposes. All lands that meet
 12 the qualifications of 15-7-202 are valued as agricultural
 13 lands for tax purposes.

14 (6) Land and the improvements thereon are separately
 15 assessed when any of the following conditions occur:

16 (a) ownership of the improvements is different from
 17 ownership of the land;

18 (b) the taxpayer makes a written request; or

19 (c) the land is outside an incorporated city or town.

20 (7) The taxable value of all property in 15-6-131 and
 21 classes two and three is the percentage of assessed value
 22 established in 15-6-131(2), 15-6-132, and 15-6-133 for each
 23 class of property."

24 Section 4. Section 67-3-201, MCA, is amended to read:
 25 "67-3-201. Aircraft registration and licensing. (1)

1 Except as provided in 67-3-102 and in subsection (7) of this
 2 section, a person may not operate or cause or authorize to
 3 be operated a civil aircraft within this state unless the
 4 aircraft has an appropriate effective registration, license,
 5 certificate, or permit issued or approved by the United
 6 States government which has been registered with the
 7 department and the registration with the department is in
 8 force.

9 (2) Aircraft customarily kept in this state shall be
 10 registered with the department, which may charge a fee
 11 therefor of not more than \$10. The registration shall be
 12 renewed annually on or before March 1 each year. An aircraft
 13 subject to a fee in lieu of tax may not be registered or
 14 have its registration renewed unless the owner submits proof
 15 of payment of the fee in lieu of tax along with the
 16 registration application.

17 (3) Section 67-3-202 and subsections (2) through (7)
 18 (6) of this section shall not apply to:

19 (a) aircraft owned and operated by the federal
 20 government, the state, or any political subdivision thereof;

21 (b) aircraft owned and held by an aircraft dealer
 22 solely for the purpose of resale;

23 (c) aircraft operated by an airline company and
 24 regularly scheduled for the primary purpose of carrying
 25 persons or property for hire in interstate or international

1 transportation; or

2 (d) dismantled or otherwise nonflyable aircraft.

3 (4) An aircraft shall be registered as property within
 4 a particular county of the state. This county shall be the
 5 county of the owner's principal residence, if the owner is a
 6 natural person, or the owner's principal place of doing
 7 business in the state, if the owner is not a natural person.
 8 However, if the owner declares by affidavit that the
 9 aircraft is customarily kept at a landing facility in
 10 another county within the state, he may register the
 11 aircraft as property within such other county. The fee in
 12 lieu of tax for aircraft shall be paid to the county
 13 treasurer where the aircraft is registered.

14 ~~(5) Except as provided in 15-6-2107, all aircraft shall~~
 15 ~~be subject to all state, county, and school district tax~~
 16 ~~levies and all other levies designated for aircraft or~~
 17 ~~airport-related uses. Such aircraft shall not be liable for~~
 18 ~~other city tax levies.~~

19 (6)(5) Aircraft not registered in the state but
 20 entering the state to engage in commercial operations shall
 21 be registered prior to commencing operation.

22 (7)(6) Owners of ultralight aircraft for which no
 23 appropriate effective license, certificate, or permit is
 24 issued by the United States government shall file with the
 25 department an appropriate registration recognized and

1 approved by the United States government. The registration
 2 may not be accepted unless proof of payment of the fee in
 3 lieu of tax imposed by [section 6] accompanies the
 4 registration application."

5 Section 5. Section 67-3-202, MCA, is amended to read:

6 "67-3-202. Penalty for registration violations. (1)

7 When an aircraft required to be registered under the
 8 provisions of subsections (2) through (7) of 67-3-201 is not
 9 registered on or before March 1 of the current calendar
 10 year, a penalty fee of \$100 shall be added to the
 11 registration fee and collected. Registration of an aircraft
 12 in the name of the applicant for the year immediately
 13 preceding the year for which application for registration is
 14 made shall be prima facie evidence that the aircraft has
 15 been based in this state during the year for which
 16 application for registration is made.

17 (2) Except for aircraft exempt from property taxation
 18 as provided in 15-6-210, an application for registration
 19 shall be accompanied by a copy of the receipt for or
 20 statement of ~~personal-property-tax~~ fee in lieu of tax paid,
 21 signed by the treasurer of the county where the aircraft is
 22 registered, or a statement of lien assignment against real
 23 property, signed by the county assessor where the aircraft
 24 is registered. A person who pays ~~personal-property-tax~~ a fee
 25 in lieu of tax on his aircraft to any jurisdiction other

1 than the county where the aircraft is required to be
 2 registered is liable for the ~~tax~~ fee in that county without
 3 credit for such other ~~taxes~~ fees paid. In addition to this
 4 civil liability, a person who attempts to establish the
 5 situs of his aircraft in any jurisdiction other than the
 6 county where the aircraft is required to be registered with
 7 intent to avoid payment of ~~taxes~~ fees to that county commits
 8 the offense of false swearing as defined in 45-7-202.

9 (3) A person who operates an aircraft required to be
 10 registered in the state without having displayed upon such
 11 aircraft a certificate of registration issued by the
 12 department for that aircraft commits a misdemeanor."

13 NEW SECTION. Section 6. Fee in lieu of tax on
 14 registered aircraft -- decal. (1) Except as provided in
 15 subsection (3), aircraft required to be registered in
 16 Montana are subject to a license fee. The fee is in lieu of
 17 property tax.

18 (2) The department shall issue a decal to the owner of
 19 the aircraft required to be registered at the time of
 20 payment of the registration fee, following payment of the
 21 fee in lieu of tax. No aircraft subject to a fee in lieu of
 22 tax may be operated in this state unless there is displayed
 23 on the aircraft a decal as visual proof that the fee in lieu
 24 of tax has been paid for the aircraft and that the aircraft
 25 is registered for the current year.

1 (3) Aircraft that meet the description of property
2 exempt from taxation under the provisions of 15-6-201(1)(a),
3 (1)(c), (1)(d), or (1)(e), 15-6-203(2), or 15-6-210 are
4 exempt from the fee imposed by subsection (1). Aircraft
5 subject to the fee in lieu of tax are exempt from all other
6 taxation.

7 NEW SECTION. Section 7. Schedule of fees for
8 aircraft. (1) Except as provided in subsection (2), the
9 following schedule based on aircraft age and engine type is
10 used to determine the amount of the fee imposed by [section
11 6]:

SEE BACK OF PAGE FOR PAGE 10.

1	YEARS OLD	Single	Single	Multi-Engine	Helicopter	Turbo	Jet
2		Engine	of Engine	Piston	Type	Helicopter	
3		200 H.P. or	200 H.P.	Type	Type	and Turbo	
4		Less				Propeller	
5						Fixed Wing	
6	Less than or equal to 5 years	\$300	\$500	\$800	\$500	\$1,600	\$2,000
7	More than 5 and less than or						
8	equal to 10 years	150	250	400	250	800	1,000
9	More than 10 and less than or						
10	equal to 20 years	75	125	200	125	400	500
11	More than 20 years	50	50	100	50	200	250

1 (2) Gliders, balloons, ultralights, gyrocopters, and
2 other types of aircraft not accounted for in subsection (1)
3 are subject to a fee of \$30.

4 (3) As used in this section, the age of an aircraft is
5 determined by the difference between the calendar year and
6 the manufacturer's designated model year.

7 NEW SECTION. Section 8. Disposition of fees. The
8 county treasurer shall credit all fees in lieu of tax on
9 aircraft to a suspense fund and at some time between March 1
10 and March 10 of each year shall distribute the money in the
11 fund in the relative proportions required by the levies for
12 state, county, school district, and municipal purposes in
13 the same manner as personal property taxes are distributed.

14 NEW SECTION. Section 9. Applicability. This act
15 applies to aircraft registered on and after January 1, 1986.

16 NEW SECTION. Section 10. Codification instruction.
17 Sections 6 through 8 are intended to be codified as an
18 integral part of Title 67, and the provisions of Title 67
19 apply to sections 6 through 8.

20 NEW SECTION. Section 11. Extension of authority. Any
21 existing authority of the department of revenue or the
22 department of commerce to make rules on the subject of the
23 provisions of this act is extended to the provisions of this
24 act.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 446-85

Form BD-15

In compliance with a written request received February 18, 19 85, there is hereby submitted a Fiscal Note for H.B. 839 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:

An act imposing a fee in lieu of property tax on aircraft other than scheduled airline aircraft; basing the fee on the age and type of aircraft; providing for disposition of the fee.

ASSUMPTIONS:

1. 1984 taxable value of aircraft - \$5,499,157 - (number of aircraft - 1783). Assume same taxable value for biennium.
2. Average statewide levy on aircraft (total taxes levied except cities and towns) 210 mills.
3. University levy - 6 mills, school foundation program - 45 mills, local government - 159 mills (210-51) and all school funding - 126 mills (.60 x 210).
4. Fee system - 1984 data - weighted average fee - \$141 (1,554 out of 2,175 registered aircraft) (Board of Aeronautics data). Assume that the weighted average fee of \$141 is low because jets not accounted for - to compensate use a weighted average fee of \$170.
5. 1984 registered aircraft in Montana - 2,000 (2,175 - 175). (175 out-of-state or destroyed.) (FAA data.)
6. Montana aircraft not registered - 1,426 (FAA data).
7. Assume all aircraft in Montana pay the fee - 3,426.
8. The disposition of fees is in the same proportion as the property tax.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date:

Feb 21, 1985

HB 839

FISCAL IMPACT:

	FY 1986			FY 1987		
	Under Current Law	Under Proposed Law	Difference	Under Current Law	Under Proposed Law	Difference
University Levy (6 mills)	\$ 32,995	\$ 16,657	(\$ 16,338)	\$ 32,995	\$ 16,657	(\$ 16,338)
School Foundation Program (45 mills)	<u>247,462</u>	<u>124,812</u>	(<u>122,650</u>)	<u>247,462</u>	<u>124,812</u>	(<u>122,650</u>)
TOTAL REVENUE	\$ 280,457	\$ 141,469	(\$ 138,988)	\$ 280,457	\$ 141,469	(\$ 138,988)

Due to the method used in financing the University System and the Foundation Program, General Fund cost increases will be \$138,988 in FY 1986 and FY 1987.

If the current non-registered aircraft do not pay the fee, the fiscal impact would be substantially higher.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Local revenue would decrease \$433,416 annually (\$874,366 - \$440,950). School funding would decrease \$343,442 annually (\$692,894 - \$349,452).