

HOUSE BILL NO. 35

INTRODUCED BY MENAHAN, QUILICI, KITSELMAN,  
JACK MOORE, KEATING, KEENAN, DEVLIN,  
HALLIGAN, SHAW, DANIELS

IN THE HOUSE

June 19, 1986	Introduced and referred to Committee on Taxation.
June 26, 1986	Committee recommend bill do pass as amended. Report adopted.  Bill printed and placed on members' desks.
June 27, 1986	Second reading, do pass as amended.  Third reading, passed.  Transmitted to Senate.

IN THE SENATE

June 27, 1986	Introduced and referred to Committee on Taxation.
June 28, 1986	Committee recommend bill be concurrent in. Report adopted.  Second reading, concurrent in.  Third reading, concurrent in. Ayes, 50; Noes, 0.  Returned to House.

IN THE HOUSE

June 28, 1986	Received from Senate.  Sent to enrolling.
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June 30, 1986

On motion, taken from enrolling  
and referred to second reading.

Second reading, do pass as  
amended.

Third reading, passed.

Transmitted to Senate.

IN THE SENATE

June 30, 1986

Second reading, concurred in.

Third reading, concurred in.  
Ayes, 48; Noes, 0.

Returned to House.

IN THE HOUSE

July 1, 1986

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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House BILL NO. 35  
INTRODUCED BY *Merrill J. Ritzel*  
*Senator Keenan - Bobin Collyer -*  
A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NEW  
CLASS EIGHTEEN PROPERTY FOR NONPRODUCTIVE PATENTED MINING  
CLAIMS OUTSIDE THE LIMITS OF AN INCORPORATED CITY OR TOWN;  
VALUING THAT PROPERTY AT THE PRICE PAID THE UNITED STATES;  
TAXING SUCH PROPERTY AT 50 PERCENT OF VALUE; AMENDING  
SECTION 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE  
AND AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in 1978 mining claims were taxed at "the price  
paid to the United States . . ."; and

WHEREAS, in 1979 Montana law was changed to tax mining  
claims as any other property; and

WHEREAS, in 1985 Montana law was further changed to  
require proof of \$1,500 in agricultural income before a  
parcel of property could be classified as agricultural; and

WHEREAS, most mining claims are in mountainous, remote  
terrain that is unfit for agriculture; and

WHEREAS, owners of mining claims are receiving  
assessment notices increasing the valuation of their  
property as much as 600%; and

WHEREAS, mining claims were valued at a minimal amount  
under the philosophy that once they began producing, the

owner would pay proceeds taxes; and

WHEREAS, the current revaluation will discourage  
production because owners will not be able to pay the taxes.

THEREFORE, the Legislature of the State of Montana  
finds it appropriate to create a separate class of property  
for mining claims and to tax them at a different tax rate.

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

NEW SECTION. Section 1. Class eighteen property --  
description -- taxable percentage. (1) Class eighteen  
property includes all nonproductive patented mining claims  
outside the limits of an incorporated city or town held by  
an owner for the ultimate purpose of developing the mineral  
interests on the property.

(2) Improvements to class eighteen property that would  
not disqualify the parcel from designation as class eighteen  
property are taxed as otherwise provided in this title,  
including that portion of the land upon which such  
improvements are located and which is reasonably required  
for the use of such improvements.

(3) Class eighteen property must be valued at the  
price paid the United States therefor and is taxed at 50% of  
its value.

NEW SECTION. Section 2. Application for  
classification as class eighteen property. A person applying

1 for classification of property as class eighteen property  
2 shall make an affidavit to the department of revenue, on a  
3 form provided by the department without cost, stating:

4 (1) the fact that the mining claim is not presently  
5 being used for mining purposes but will be in the future;

6 (2) that the mineral interests of the mining claim  
7 have not been depleted; and

8 (3) such other information as is relevant to the  
9 applicant's eligibility.

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

11 "15-8-111. Assessment -- market value standard --  
12 exceptions. (1) All taxable property must be assessed at  
13 100% of its market value except as provided in subsection  
14 (5) of this section and in 15-7-111 through 15-7-114.

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

19 (b) Except as provided in subsection (3), the market  
20 value of all motor trucks; agricultural tools, implements,  
21 and machinery; and vehicles of all kinds, including but not  
22 limited to aircraft and boats and all watercraft, is the  
23 average wholesale value shown in national appraisal guides  
24 and manuals or the value of the vehicle before  
25 reconditioning and profit margin. The department of revenue

1 shall prepare valuation schedules showing the average  
2 wholesale value when no national appraisal guide exists.

3 (3) The department of revenue or its agents may not  
4 adopt a lower or different standard of value from market  
5 value in making the official assessment and appraisal of the  
6 value of property in 15-6-134 through 15-6-140, and 15-6-145  
7 through 15-6-147, and [section 1], except:

8 (a) the wholesale value for agricultural implements  
9 and machinery is the loan value as shown in the Official  
10 Guide, Tractor and Farm Equipment, published by the national  
11 farm and power equipment dealers association, St. Louis,  
12 Missouri; and

13 (b) for agricultural implements and machinery not  
14 listed in the official guide, the department shall prepare a  
15 supplemental manual where the values reflect the same  
16 depreciation as those found in the official guide.

17 (4) For purposes of taxation, assessed value is the  
18 same as appraised value.

19 (5) The taxable value for all property in classes four  
20 through eleven and fifteen through seventeen eighteen is the  
21 percentage of market value established for each class of  
22 property in 15-6-134 through 15-6-141, and 15-6-145 through  
23 15-6-147, and [section 1].

24 (6) The assessed value of properties in 15-6-131  
25 through 15-6-133 is as follows:

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

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

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

(d) Properties in 15-6-143, under class thirteen, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.

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

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

(b) the taxpayer makes a written request; or

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

(8) The taxable value of all property in 15-6-131 and classes two, three, and thirteen is the percentage of assessed value established in 15-6-131(2), 15-6-132, 15-6-133, and 15-6-143 for each class of property. (Subsections (3)(a) and (3)(b) applicable to tax years

beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985. Subsection (6)(d) and references in (8) to class thirteen and 15-6-143 terminate January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

NEW SECTION. Section 4. Codification instruction. Sections 1 and 2 are intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15 apply to sections 1 and 2.

NEW SECTION. Section 5. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 6. Applicability. This act applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1985.

NEW SECTION. Section 7. Effective date. This act is effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB035, as introduced.

Description of Proposed Legislation:

A bill to establish a new class eighteen property for nonproductive patented mining claims outside the limits of an incorporated city or town; valuing that property at the price paid the United States; taxing such property at 50% of value; amending Section 15-8-111, MCA; and providing an applicability date and an immediate effective date.

Assumptions:

1. School foundation mill levy is 45 mills.
2. University system mill levy is 6 mills.
3. The taxable value for Montana for FY87 is \$2,325,966,000.
4. The average mill levy for Montana, for all purposes except cities and towns, is 211.85 mills.
5. The taxable value of nonproductive rural mines under the current law is \$2,158,696 (records on file in Property Tax Division).
6. The average per acre price paid the U.S. Government for rural mining claims is \$3.75 (average of \$2.50 for placer or millsite claim; \$5.00 for lode claim).
7. Nonproductive mine acreage, less building sites, is 168,861 (records on file in Property Tax Division).

Fiscal Impact:

	Current Law	FY87 Proposed Law	Difference
University System	\$ 13,955,796	\$ 13,944,744	\$(11,052)
School Foundation Program	104,668,470	104,585,577	(82,893)
Total Revenue	\$118,624,266	\$118,530,321	\$(93,945)

Expenditures

Updating county records would involve additional costs for the Department of Revenue. Costs would involve personnel and benefits, forms, postage, and reprogramming county computers.

Affect on County Revenue:

	Current Law	FY87 Proposed Law	Difference
Property Tax	\$374,131,631	\$373,835,335	\$ (296,296)

*David L. Hunter*  
BUDGET DIRECTOR

6/29/86  
DATE

Office of Budget and Program Planning

*W. T. Monahan*  
PRIMARY SPONSOR

6/25/86  
DATE

Fiscal Note for HB35, as introduced.

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 35  
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VALUING THAT PROPERTY ~~AT THE PRICE PAID THE UNITED STATES AS~~  
IT WOULD BE VALUED AS AGRICULTURAL GRAZING LAND; TAXING SUCH  
PROPERTY ~~AT 50--PERCENT--OF--VALUE~~ THE RATE GENERALLY  
APPLICABLE TO CLASS FOUR PROPERTY; AMENDING SECTION  
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ANY PROPERTY THAT IS USED FOR RESIDENTIAL, RECREATIONAL AS  
DESCRIBED IN 70-16-301, OR COMMERCIAL AS DEFINED IN  
15-1-101, PURPOSES, OR IF THE SURFACE IS BEING USED FOR  
OTHER THAN MINING PURPOSES AND HAS A SEPARATE AND  
INDEPENDENT VALUE FOR SUCH OTHER PURPOSES.

(2) Improvements to class eighteen property that would  
not disqualify the parcel from designation as class eighteen

SECOND READING

1 property are taxed as otherwise provided in this title,  
2 including that portion of the land upon which such  
3 improvements are located and which is reasonably required  
4 for the use of such improvements.

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6 ~~price--paid--the-United-States-therefor~~ AS IF SUCH LAND WERE  
7 DEVOTED TO AGRICULTURAL GRAZING USE and is taxed at 50% 30%  
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13 form provided by the department without cost, stating:

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16 BEING HELD FOR THAT USE;

17 (2) that the mineral interests of the mining claim  
18 have not been depleted; and

19 (3) such other information as ~~is--relevant--to-the~~  
20 ~~applicant's--eligibility~~ THE DEPARTMENT MAY REQUIRE TO  
21 DETERMINE AN APPLICANT'S ELIGIBILITY AND TO DETERMINE IF THE  
22 SURFACE IS BEING USED FOR OTHER THAN MINING PURPOSES AND HAS  
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10 and machinery; and vehicles of all kinds, including but not  
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22 when valued for agricultural purposes. All lands that meet  
23 the qualifications of 15-7-202 are valued as agricultural  
24 lands for tax purposes.

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2 standing timber and grazing productivity of the land when  
3 valued as timberland.

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5 assessed when any of the following conditions occur:

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7 ownership of the land;

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11 classes two, three, and thirteen is the percentage of  
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14 (Subsections (3)(a) and (3)(b) applicable to tax years  
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WHEREAS, in 1978 mining claims were taxed at "the price paid to the United States . . ."; and

WHEREAS, in 1979 Montana law was changed to tax mining claims as any other property; and

WHEREAS, in 1985 Montana law was further changed to require proof of \$1,500 in agricultural income before a parcel of property could be classified as agricultural; and

WHEREAS, most mining claims are in mountainous, remote terrain that is unfit for agriculture; and

WHEREAS, owners of mining claims are receiving

assessment notices increasing the valuation of their property as much as 600%; and

WHEREAS, mining claims were valued at a minimal amount under the philosophy that once they began producing, the owner would pay proceeds taxes; and

WHEREAS, the current revaluation will discourage production because owners will not be able to pay the taxes.

THEREFORE, the Legislature of the State of Montana finds it appropriate to create a separate class of property for mining claims and to tax them at a different tax rate.

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NEW SECTION. Section 1. Class eighteen property -- description -- taxable percentage. (1) Class eighteen property includes all nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. CLASS EIGHTEEN DOES NOT INCLUDE ANY PROPERTY THAT IS USED FOR RESIDENTIAL, RECREATIONAL AS DESCRIBED IN 70-16-301, OR COMMERCIAL AS DEFINED IN 15-1-101, PURPOSES, OR IF THE SURFACE IS BEING USED FOR OTHER THAN MINING PURPOSES AND OR HAS A SEPARATE AND INDEPENDENT VALUE FOR SUCH OTHER PURPOSES.

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THIRD READING  
HB 35

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assessment notices increasing the valuation of their property as much as 600%; and

WHEREAS, mining claims were valued at a minimal amount under the philosophy that once they began producing, the owner would pay proceeds taxes; and

WHEREAS, the current revaluation will discourage production because owners will not be able to pay the taxes.

THEREFORE, the Legislature of the State of Montana finds it appropriate to create a separate class of property for mining claims and to tax them at a different tax rate.

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

NEW SECTION. Section 1. Class eighteen property -- description -- taxable percentage. (1) Class eighteen property includes all nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. CLASS EIGHTEEN DOES NOT INCLUDE ANY PROPERTY THAT IS USED FOR RESIDENTIAL, RECREATIONAL AS DESCRIBED IN 70-16-301, OR COMMERCIAL AS DEFINED IN 15-1-101, PURPOSES, OR IF THE SURFACE IS BEING USED FOR OTHER THAN MINING PURPOSES AND OR HAS A SEPARATE AND INDEPENDENT VALUE FOR SUCH OTHER PURPOSES.

(2) Improvements to class eighteen property that would not disqualify the parcel from designation as class eighteen

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property are taxed as otherwise provided in this title, including that portion of the land upon which such improvements are located and which is reasonably required for the use of such improvements.

(3) Class eighteen property must be valued at--the price--paid--the-United-States-therefor AS IF SUCH LAND WERE DEVOTED TO AGRICULTURAL GRAZING USE and is taxed at 50% 30% of its value.

NEW SECTION. Section 2. Application for classification as class eighteen property. A person applying for classification of property as class eighteen property shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(1) the fact that the mining claim is not presently being used for mining purposes but ~~will-be-in-the-future~~ IS BEING HELD FOR THAT USE;

(2) that the mineral interests of the mining claim have not been depleted; and

(3) such other information as ~~is--relevant--to-the applicant's--eligibility~~ THE DEPARTMENT MAY REQUIRE TO DETERMINE AN APPLICANT'S ELIGIBILITY AND TO DETERMINE IF THE SURFACE IS BEING USED FOR OTHER THAN MINING PURPOSES AND OR HAS A SEPARATE AND INDEPENDENT VALUE FOR SUCH OTHER PURPOSES.

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

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

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

(b) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds, including but not limited to aircraft and boats and all watercraft, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through 15-6-140, and 15-6-145 through 15-6-147, and [section 1], except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national



1 farm and power equipment dealers association, St. Louis,  
2 Missouri; and

3 (b) for agricultural implements and machinery not  
4 listed in the official guide, the department shall prepare a  
5 supplemental manual where the values reflect the same  
6 depreciation as those found in the official guide.

7 (4) For purposes of taxation, assessed value is the  
8 same as appraised value.

9 (5) The taxable value for all property in classes four  
10 through eleven and fifteen through seventeen eighteen is the  
11 percentage of market value established for each class of  
12 property in 15-6-134 through 15-6-141, and 15-6-145 through  
13 15-6-147, and [section 1].

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

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

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

21 (c) Properties in 15-6-133, under class three, are  
22 assessed at 100% of the productive capacity of the lands  
23 when valued for agricultural purposes. All lands that meet  
24 the qualifications of 15-7-202 are valued as agricultural  
25 lands for tax purposes.

1 (d) Properties in 15-6-143, under class thirteen, are  
2 assessed at 100% of the combined appraised value of the  
3 standing timber and grazing productivity of the land when  
4 valued as timberland.

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

7 (a) ownership of the improvements is different from  
8 ownership of the land;

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

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

11 (8) The taxable value of all property in 15-6-131 and  
12 classes two, three, and thirteen is the percentage of  
13 assessed value established in 15-6-131(2), 15-6-132,  
14 15-6-133, and 15-6-143 for each class of property.  
15 (Subsections (3)(a) and (3)(b) applicable to tax years  
16 beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.  
17 Subsection (6)(d) and references in (8) to class thirteen  
18 and 15-6-143 terminate January 1, 1991--sec. 10, Ch. 681, L.  
19 1985.)"

20 NEW SECTION. Section 4. Codification instruction.  
21 Sections 1 and 2 are intended to be codified as an integral  
22 part of Title 15, chapter 6, part 1, and the provisions of  
23 Title 15 apply to sections 1 and 2.

24 NEW SECTION. Section 5. Extension of authority. Any  
25 existing authority of the department of revenue to make

1 rules on the subject of the provisions of this act is  
2 extended to the provisions of this act.

3 NEW SECTION. Section 6. Applicability. This act  
4 applies retroactively, within the meaning of 1-2-109, to  
5 taxable years beginning after December 31, 1985.

6 NEW SECTION. Section 7. Effective date. This act is  
7 effective on passage and approval.

-End-