

SB 392 INTRODUCED BY ECK, KEENAN
REVISING PERSONAL PROPERTY TAX ASSESSMENT

3/06 INTRODUCED
3/06 REFERRED TO TAXATION
3/06 FISCAL NOTE REQUESTED
3/10 HEARING
3/13 TABLED IN COMMITTEE
3/19 FISCAL NOTE RECEIVED

1 *Senate* BILL NO. *392*
 2 INTRODUCED BY *Ed Keenan*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE
 5 CLASSIFICATION AND TAXATION OF PERSONAL PROPERTY; AMENDING
 6 SECTIONS 15-1-101, 15-6-136, 15-6-137, 15-8-111, 15-24-301,
 7 15-24-1102, AND 15-24-1103, MCA; REPEALING SECTIONS 15-6-138
 8 THROUGH 15-6-140 AND 15-6-146, MCA; AND PROVIDING AN
 9 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

17 (a) The term "agricultural" refers to the raising of
 18 livestock, poultry, bees, and other species of domestic
 19 animals and wildlife in domestication or a captive
 20 environment, and the raising of field crops, fruit, and
 21 other animal and vegetable matter for food or fiber.

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

24 (c) The term "average wholesale value" means the value
 25 to a dealer prior to reconditioning and profit margin shown

1 in national appraisal guides and manuals or the valuation
 2 schedules of the department of revenue.

3 (d) (i) The term "commercial", when used to describe
 4 property, means any property used or owned by a business, a
 5 trade, or a nonprofit corporation as defined in 35-2-102 or
 6 used for the production of income, except that property
 7 described in subsection (ii).

8 (ii) The following types of property are not
 9 commercial:

10 (A) agricultural lands;

11 (B) timberlands;

12 (C) single-family residences and ancillary
 13 improvements and improvements necessary to the function of a
 14 bona fide farm, ranch, or stock operation;

15 (D) mobile homes used exclusively as a residence
 16 except when held by a distributor or dealer of trailers or
 17 mobile homes as his stock in trade;

18 (E) all property described in 15-6-135; and

19 (F) all property described in 15-6-136; ~~and~~
 20 ~~(G) all property described in 15-6-146.~~

21 (e) The term "comparable property" means property that
 22 has similar use, function, and utility; that is influenced
 23 by the same set of economic trends and physical,
 24 governmental, and social factors; and that has the potential
 25 of a similar highest and best use.



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

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

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

22 (i) The term "livestock" means cattle, sheep, swine,
23 goats, horses, mules, and asses.

24 (j) The term "mobile home" means forms of housing
25 known as "trailers", "housetrailer", 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", "housetrailer", or
4 "trailer coach" up to 8 feet in width or 45 feet in length
5 used as a principal residence.

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

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

13 (m) 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 (n) The term "real estate" includes:

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

23 (ii) all mines, minerals, and quarries in and under the
24 land subject to the provisions of 15-23-501 and Title 15,
25 chapter 23, part 8; all timber belonging to individuals or

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

3 (o) The term "taxable value" means the percentage of
4 market, or assessed, or depreciated value as provided for in
5 15-6-131 through ~~15-6-140~~ 15-6-137.

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 15-6-136, MCA, is amended to read:
16 "15-6-136. Class six property -- description --
17 taxable percentage. (1) Class six property includes:

18 (a) livestock, poultry, bees, and other species of
19 domestic animals and wildlife raised in domestication or a
20 captive environment, except for cats, dogs, and other
21 household pets not raised for profit, and the unprocessed
22 products of such animals and wildlife;

23 (b) all unprocessed agricultural products on the farm
24 or in storage except all perishable fruits and vegetables in
25 farm storage and owned by the producer;

1 (c) ~~items--of--personal-property-intended-for-lease-in~~
2 ~~the-ordinary--course--of--business--provided--each--item--of~~
3 ~~personal-property-satisfies-all-of-the-following:~~

4 ~~(i)--the--full--and--true--value--of--the--personal--property~~
5 ~~is--less--than--\$5,000;~~

6 ~~(ii)--the--personal--property--is--owned--by--a--business--whose~~
7 ~~primary--business--income--is--from--rental--or--lease--of--personal~~
8 ~~property--to--individuals--wherein--no--one--customer--of--the~~
9 ~~business--accounts--for--more--than--10%--of--the--total--rentals--or~~
10 ~~leases--during--a--calendar--year;--and~~

11 ~~(iii)--the--lease--of--the--personal--property--is--generally~~
12 ~~on--an--hourly--daily--or--weekly--basis~~ all trailers, including
13 those prorated under 15-24-102, except those subject to a
14 fee in lieu of property tax, and all buses and trucks having
15 a rated capacity of more than three-quarters of a ton,
16 including those prorated under 15-24-102; and

17 (d) all other personal property unless it is
18 specifically included in another class or subject to a fee
19 in lieu of tax.

20 (2) ~~Class--six--property~~ Property described in
21 subsections (1)(a) and (1)(b) is taxed at 4% of its market
22 value.

23 (3) Property described in subsection (1)(c) is taxed
24 at 11% of its market value as defined in 15-8-111.

25 (4) Property described in subsection (1)(d) is taxed

1 at its depreciated value as reported in the taxpayer's
 2 individual or corporate income tax return for the preceding
 3 tax year."

4 Section 3. Section 15-6-137, MCA, is amended to read:

5 "15-6-137. Class seven property -- description --
 6 taxable percentage. (1) Class seven property includes:

7 (a) all property used and owned by persons, firms,
 8 corporations, or other organizations that are engaged in the
 9 business of furnishing telephone communications exclusively
 10 to rural areas or to rural areas and cities and towns of 800
 11 persons or less;

12 (b) all property owned by cooperative rural electrical
 13 and cooperative rural telephone associations that serve less
 14 than 95% of the electricity consumers or telephone users
 15 within the incorporated limits of a city or town; and

16 (c) electric transformers and meters; electric light
 17 and power substation machinery; natural gas measuring and
 18 regulating station equipment, meters, and compressor station
 19 machinery owned by noncentrally assessed public utilities;
 20 and tools used in the repair and maintenance of this
 21 property;-and

22 ~~(d) tools, implements, and machinery used to repair~~
 23 ~~and maintain machinery not used for manufacturing and mining~~
 24 ~~purposes.~~

25 (2) To qualify for this classification, the average

1 circuit miles for each station on the telephone
 2 communication system described in subsection (1)(b) must be
 3 more than 1 mile.

4 (3) Class seven property is taxed at 8% of its market
 5 value."

6 Section 4. Section 15-8-111, MCA, is amended to read:

7 "15-8-111. Assessment -- market value standard --
 8 exceptions. (1) All taxable property must be assessed at
 9 100% of its market value except as provided in subsection
 10 (5) of this section, in 15-6-136, and in 15-7-111 through
 11 15-7-114.

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

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

25 (3) The department of revenue or its agents may not

1 adopt a lower or different standard of value from market
2 value in making the official assessment and appraisal of the
3 value of property in 15-6-134 through ~~15-6-140~~ and 15-6-137,
4 15-6-145, and 15-6-147 through 15-6-149, except:

5 ~~{a}--the--wholesale--value--for--agricultural--implements~~
6 ~~and--machinery--is--the--loan--value--as--shown--in--the--Official~~
7 ~~Guide,--Tractor--and--Farm--Equipment,--published--by--the--national~~
8 ~~farm--and--power--equipment--dealers--association,--St.---Louis,~~
9 ~~Missouri;--and~~

10 ~~{b)--for--agricultural--implements--and--machinery--not~~
11 ~~listed--in--the--official--guide,--the--department--shall--prepare--a~~
12 ~~supplemental--manual--where--the--values--reflect--the--same~~
13 ~~depreciation--as--those--found--in--the--official--guide; that~~
14 personal property described in 15-6-136(1)(d) must be
15 assessed at the depreciated value reported in the taxpayer's
16 individual or corporate income tax return for the preceding
17 tax year.

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

20 (5) The taxable value for all property in classes four
21 through, five, seven, eleven, and fifteen, and seventeen
22 through nineteen is the percentage of market value
23 established for each class of property in 15-6-134 through,
24 15-6-135, 15-6-137, 15-6-141, and 15-6-145, and 15-6-147
25 through 15-6-149.

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

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

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

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

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

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

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

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

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

23 (8) The taxable value of all property in 15-6-131 and
24 classes two, three, and thirteen is the percentage of
25 assessed value established in 15-6-131(2), 15-6-132,

1 15-6-133, and 15-6-143 for each class of property.
 2 (Subsections (3)(a) [now deleted] and (3)(b) [now deleted]
 3 applicable to tax years beginning after December 31,
 4 1985--sec. 4, Ch. 463, L. 1985. Subsection (6)(d) and
 5 references in (8) to class thirteen and 15-6-143 terminate
 6 January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

7 Section 5. Section 15-24-301, MCA, is amended to read:

8 "15-24-301. Personal property brought into the state
 9 -- assessment -- exceptions -- custom combine equipment. (1)
 10 Except as provided in subsections (2) through (6), property
 11 in the following cases is subject to taxation and assessment
 12 for all taxes levied that year in the county in which it is
 13 located:

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

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

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

22 (2) The taxes on this property are levied in the same
 23 manner and to the same extent, except as otherwise provided,
 24 as though the property had been in the county on the regular
 25 assessment date, provided that the property has not been

1 regularly assessed for the year in some other county of the
 2 state.

3 (3) Nothing in this section shall be construed to levy
 4 a tax against a merchant or dealer within this state on
 5 goods, wares, or merchandise brought into the county to
 6 replenish the stock of the merchant or dealer.

7 (4) Any motor vehicle not subject to the light vehicle
 8 license fee or a fee in lieu of tax brought, driven, or
 9 coming into this state by any nonresident person temporarily
 10 employed in Montana and used exclusively for transportation
 11 of such person is subject to taxation and assessment for
 12 taxes as follows:

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

15 (b) One-fourth of the annual tax liability of the
 16 motor vehicle must be paid for each quarter or portion of a
 17 quarter of the year that the motor vehicle is located in
 18 Montana.

19 (c) The quarterly taxes are due the first day of the
 20 quarter.

21 (5) Agricultural harvesting machinery classified under
 22 class ~~eight~~ six, licensed in other states, and operated on
 23 the lands of persons other than the owner of the machinery
 24 under contracts for hire shall be subject to a fee in lieu
 25 of taxation of \$35 per machine for the calendar year in

1 which the fee is collected. The machines shall be subject to
2 taxation under class eight six only if they are sold in
3 Montana.

4 (6) The provisions of this part do not apply to
5 automobiles and trucks having a rated capacity of
6 three-quarters of a ton or less, motorcycles, or
7 quadricycles. These vehicles are subject to the fee provided
8 for in 61-3-532 or 61-3-541."

9 Section 6. Section 15-24-1102, MCA, is amended to
10 read:

11 "15-24-1102. Federal property held under contract of
12 sale. When the property is held under a contract of sale or
13 other agreement whereby upon payment the legal title is or
14 may be acquired by the person, the real property shall be
15 assessed and taxed as defined in 15-6-131 through ~~15-6-140~~
16 15-6-137 and 15-8-111 without deduction on account of the
17 whole or any part of the purchase price or other sum due on
18 the property remaining unpaid. The lien for the tax may not
19 attach to, impair, or be enforced against any interest of
20 the United States in the real property."

21 Section 7. Section 15-24-1103, MCA, is amended to
22 read:

23 "15-24-1103. Federal property held under lease. When
24 the property is held under lease, other interest, or estate
25 therein less than the fee, except under contract of sale,

1 the property shall be assessed and taxed as for the value,
2 as defined in 15-6-131 through ~~15-6-140~~ 15-6-137 of such
3 leasehold, interest, or estate in the property and the lien
4 for the tax shall attach to and be enforced against only the
5 leasehold, interest, or estate in the property. When the
6 United States authorizes the taxation of the property for
7 the full assessed value of the fee thereof, the property
8 shall be assessed for full assessed value as defined in
9 15-8-111."

10 NEW SECTION. Section 8. Repealer. Sections 15-6-138
11 through 15-6-140 and 15-6-146, MCA, are repealed.

12 NEW SECTION. Section 9. Extension of authority. Any
13 existing authority of the department of revenue to make
14 rules on the subject of the provisions of this act is
15 extended to the provisions of this act.

16 NEW SECTION. Section 10. Effective date --
17 applicability. This act is effective July 1, 1987, and
18 applies to property assessed in 1987 and to tax liability
19 for the year 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

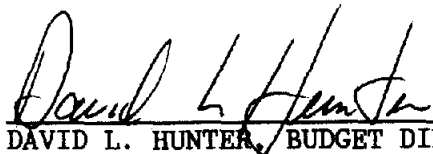
In compliance with a written request, there is hereby submitted a Fiscal Note for SB392, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the classification and taxation of personal property; and providing an effective and an applicability date.

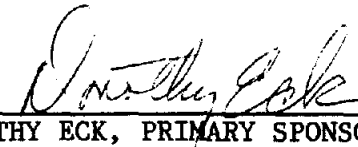
ASSUMPTIONS:

1. The taxable value of the state will be \$1,997,193,000 in FY88 and \$2,024,661,000 in FY89 (REAC).
2. The proposed law would impact property tax revenues in FY88. It would also impact property taxation for years after FY88.
3. It is assumed that local officials are responsible for the administration of the proposal.
4. The market value of trucks over 3/4 ton, buses, and trailers (not subject to fees in lieu of property tax) is \$158,060,405. Total taxable value, under the current law is \$23,055,131. (Estimates from 1986 county assessors reports.) Under the proposed law the taxable value rate of this property will be 11%.
5. 39% of machinery and equipment in classes 8, 9, 10, and 16 is attached to a building or affixed to land. The market value of this property is \$608,024,160. Under current law its taxable value is \$70,528,878. (Estimates from 1986 county assessors reports.) Under the proposed law the taxable value rate of this property will be 3.86%.
6. The market value of other personal property (classes 8,9,10,and 16 less buses, trucks, trailers, and attached machinery and equipment, plus machinery, tools, and implements in class 7) is \$1,724,396,192. The taxable value of this property under current law is \$195,127,267. (Estimates from 1986 county assessors reports.) Under the proposed law, this property would be taxed at its depreciated value as reported on the taxpayers' individual or corporate income tax return. Since data on depreciated values is not readily available, a taxable value rate of 4% is used in this analysis. If depreciated value were used as the taxable value of this property, revenue losses would be greater than the estimates shown below.
7. The university mill levy is 6 mills; the school equalization mill levy is 45 mills; the average local mill levy is 189 mills.
8. The proposal will reduce the cost of administering the personal property tax by \$1,377,848 in FY88 and FY89 by reducing personal property assessment workloads.
9. It is assumed that a minimal audit effort will be developed to audit depreciated values reported to assessors. An audit team of 5 would provide 0.6 percent audit coverage at a cost of \$195,900 in FY88 and \$140,400 in FY89.



DATE 3/19/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning



DATE 3/19/87

DOROTHY ECK, PRIMARY SPONSOR

Fiscal Note for SB392, as introduced.

SB 392

Fiscal Note Request, SB392, as introduced.

Form BD-15

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FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue Impact:</u>						
University Levy	\$ 11,983,158	\$ 10,909,884	(\$1,073,274)	\$ 12,147,966	\$ 11,074,692	(\$1,073,274)
School Equalization	<u>89,873,685</u>	<u>81,824,128</u>	<u>(8,049,557)</u>	<u>91,109,745</u>	<u>83,060,188</u>	<u>(8,049,557)</u>
TOTAL	\$101,856,843	\$ 92,734,012	(\$9,122,831)	\$103,257,711	\$ 94,134,880	(\$9,122,831)
<u>Expenditure Impact: (General Fund)</u>						
Personal Property Admin.	\$ 0	(\$ 1,377,800)	(\$1,377,800)	\$ 0	(\$ 1,377,800)	(\$1,377,800)
Audit Effort	<u>0</u>	<u>195,900</u>	<u>195,900</u>	<u>0</u>	<u>140,400</u>	<u>140,400</u>
Total Expenditures	\$ 0	(\$ 1,181,900)	(\$1,181,900)	\$ 0	(\$ 1,237,400)	(\$1,237,400)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The proposed law would result in a decline in local property tax revenue of approximately \$33,808,140 in both FY88 and FY89.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 10 could be construed to mean that the proposed law applies only to property assessed in 1987. It is assumed that the proposed changes are intended to apply to 1987 and years thereafter.

SB 392