

SENATE BILL 50

Introduced by Eck

1/03	Introduced
1/03	Referred to Taxation
1/03	Fiscal Note Requested
1/09	Hearing
1/09	Fiscal Note Received
1/10	Fiscal Note Printed
	Died in Committee

1 SENATE BILL NO. 50
2 INTRODUCED BY ECK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A PRORATED
6 REFUND OF PROPERTY TAXES FOR PERSONAL PROPERTY REMOVED FROM
7 THE STATE THAT ACQUIRES A TAX SITUS IN ANOTHER STATE OR
8 COUNTRY; AMENDING SECTIONS 15-8-408, 15-24-301, AND
9 15-24-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
10 AND A RETROACTIVE APPLICABILITY DATE."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 **Section 1.** Section 15-8-408, MCA, is amended to read:
14 "15-8-408. Personal property. (1) Personal All
15 personal property which, except motor vehicles subject to
16 the provisions of 15-8-202 and livestock subject to the
17 provisions of Title 15, chapter 24, part 9, that was in the
18 state on January 1 of any year and that is not subject to an
19 exemption from taxation on January 1 of any year shall be is
20 presumed to be taxable for the full year wherever and
21 whenever found in any county in the state, whether the same
22 be owned, claimed, or possessed by the person owning,
23 claiming, or possessing it on January 1 or not; provided
24 that in case the same property is assessed in more than one
25 county, the county first making the assessment shall be

1 entitled to collect the taxes.
2 (2) The person owning, claiming, or possessing any
3 property subject to the provisions of subsection (1) upon
4 which the tax in this state has been paid that is removed
5 from the state and acquires a tax situs in another state or
6 country may apply to the county treasurer in the county in
7 which the property was taxed for a prorated refund of taxes
8 subject to the following:
9 (a) The application must contain such information as
10 the department of revenue may require to show the removal of
11 the property from the state and the date on which it was
12 removed.
13 (b) The application must be made within the same year
14 in which the property is removed from the state or within 6
15 months from the date of the removal of the property,
16 whichever date occurs later.
17 (c) The refund must be prorated according to the ratio
18 that the number of months remaining in the year at the time
19 the property was removed bears to the total number of months
20 in the year."

21 **Section 2.** Section 15-24-301, MCA, is amended to read:
22 "15-24-301. Personal property brought into the state
23 -- assessment -- exceptions -- custom combine equipment. (1)
24 Except as provided in subsections (2) through (5), property
25 in the following cases is subject to taxation and assessment

1 for all taxes levied that year in the county in which it is
2 located:

3 (a) any personal property (including livestock)
4 brought, driven, or coming into this state at any time
5 during the year that is used in the state for hire,
6 compensation, or profit;

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

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

11 (2) (a) The taxes on this property are levied in the
12 same manner and to the same extent, except as otherwise
13 provided, as though the property had been in the county on
14 the regular assessment date, provided that the property has
15 not been regularly assessed for the year in some other
16 county of the state.

17 (b) Property that is removed from the state and upon
18 which a prorated refund of taxes has been made is again
19 subject to the provisions of subsection (1) if it is
20 brought, driven, or comes back into the state during the
21 same tax year for which the refund was made.

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

1 (4) Any motor vehicle not subject to a fee in lieu of
2 tax brought, driven, or coming into this state by any
3 nonresident person temporarily employed in Montana and used
4 exclusively for transportation of such person is subject to
5 taxation and assessment for taxes as follows:

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

8 (b) One-fourth of the annual tax liability of the
9 motor vehicle must be paid for each quarter or portion of a
10 quarter of the year that the motor vehicle is located in
11 Montana.

12 (c) The quarterly taxes are due the first day of the
13 quarter.

14 (5) Agricultural harvesting machinery classified under
15 class eight, licensed in other states, and operated on the
16 lands of persons other than the owner of the machinery under
17 contracts for hire shall be subject to a fee in lieu of
18 taxation of \$35 per machine for the calendar year in which
19 the fee is collected. The machines shall be subject to
20 taxation under class eight only if they are sold in
21 Montana."

22 **Section 3.** Section 15-24-303, MCA, is amended to read:

23 **"15-24-303. Proration of tax on personal property. (1)**
24 **If such the personal property described in 15-24-301 is**
25 **brought or driven or comes into any county before the**

1 assessment date, the tax shall be the full amount of the tax
 2 computed as provided above, but if brought, driven, or
 3 coming into the county after the assessment date, the tax
 4 shall be prorated according to the ratio which the number of
 5 months the property has its taxable situs in the county
 6 bears to the total number of months in said year.

7 (2) The person owning, claiming, or possessing any
 8 property subject to the provisions of subsection (1) upon
 9 which the tax in this state has been paid that is removed
 10 from the state and acquires a tax situs in another state or
 11 country may apply to the county treasurer in the county in
 12 which the property was taxed for a prorated refund of taxes
 13 subject to the following:

14 (a) The application must contain such information as
 15 the department of revenue may require to show the removal of
 16 the property from the state and the date on which it was
 17 removed.

18 (b) The application must be made within the same year
 19 in which the property is removed from the state or within 6
 20 months from the date of the removal of the property,
 21 whichever date occurs later.

22 (c) The refund must be prorated according to the ratio
 23 that the number of months remaining in the year at the time
 24 the property was removed bears to the total number of months
 25 in the year."

1 **Section 4. Extension of authority.** Any existing
 2 authority to make rules on the subject of the provisions of
 3 [this act] is extended to the provisions of [this act].

4 **Section 5. Retroactive applicability.** [This act]
 5 applies retroactively, within the meaning of 1-2-109, to tax
 6 years beginning after December 31, 1988.

7 **Section 6. Effective date.** [This act] is effective on
 8 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 SB050, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a prorated refund of property taxes for personal property removed from the state that acquires a tax situs in another state or country; amending sections 15-8-408, 15-24-301, and 15-24-303, MCA; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

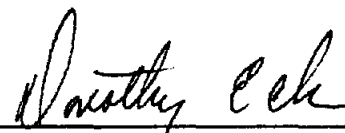
The bill will amend property tax statutes to conform with a recent district court ruling. Since the department has not changed its administrative practices in face of the decision, the bill will reduce property tax revenues by providing for refunds of personal property taxes paid on property that leaves the state. However, the department does not have adequate information with which to estimate the amount of property taxes that would be refunded under the proposal.



RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

1/7/89

DATE



DOROTHY ECK, PRIMARY SPONSOR

DATE

Fiscal Note for SB050, as introduced
