

SENATE BILL 149

Introduced by Weeding, et al.

1/16	Introduced
1/16	Referred to Fish & Game
1/17	Fiscal Note Requested
1/17	Rereferred to Taxation
1/23	Fiscal Note Received
1/25	Fiscal Note Printed
	Died in Committee

1 *Senate* BILL NO. *149*  
2 INTRODUCED BY *Teleeding, Bengtson, Vaughn*  
3 *Stankow, Hammond*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE FEE IN  
5 LIEU OF TAX ON BOATS WITH A PROPERTY TAX; AMENDING SECTIONS  
6 15-6-201, 15-8-201, 15-16-202, 23-2-512, AND 23-2-515  
7 THROUGH 23-2-519, MCA; AND PROVIDING AN APPLICABILITY DATE."  
8

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

10 **Section 1.** Section 15-6-201, MCA, is amended to read:

11 "15-6-201. **Exempt categories.** (1) The following  
12 categories of property are exempt from taxation:

13 (a) the property of:

14 (i) the United States, the state, counties, cities,  
15 towns, school districts, except, if congress passes  
16 legislation that allows the state to tax property owned by  
17 an agency created by congress to transmit or distribute  
18 electrical energy, the property constructed, owned, or  
19 operated by a public agency created by the congress to  
20 transmit or distribute electric energy produced at privately  
21 owned generating facilities (not including rural electric  
22 cooperatives);

23 (ii) irrigation districts organized under the laws of  
24 Montana and not operating for profit;

25 (iii) municipal corporations; and

1 (iv) public libraries;

2 (b) buildings, with land they occupy and furnishings  
3 therein, owned by a church and used for actual religious  
4 worship or for residences of the clergy, together with  
5 adjacent land reasonably necessary for convenient use of  
6 such the buildings;

7 (c) property used exclusively for agricultural and  
8 horticultural societies, for educational purposes, and for  
9 nonprofit health care facilities, as defined in 50-5-101,  
10 licensed by the department of health and environmental  
11 sciences and organized under Title 35, chapter 2 or 3. A  
12 health care facility that is not licensed by the department  
13 of health and environmental sciences and organized under  
14 Title 35, chapter 2 or 3, is not exempt.

15 (d) property that meets the following conditions:

16 (i) is owned and held by any association or  
17 corporation organized under Title 35, chapter 2, 3, 20, or  
18 21;

19 (ii) is devoted exclusively to use in connection with a  
20 cemetery or cemeteries for which a permanent care and  
21 improvement fund has been established as provided for in  
22 Title 35, chapter 20, part 3; and

23 (iii) is not maintained and operated for private or  
24 corporate profit;

25 (e) institutions of purely public charity;

1 (f) evidence of debt secured by mortgages of record  
2 upon real or personal property in the state of Montana;

3 (g) public art galleries and public observatories not  
4 used or held for private or corporate profit;

5 (h) all household goods and furniture, including but  
6 not limited to clocks, musical instruments, sewing machines,  
7 and wearing apparel of members of the family, used by the  
8 owner for personal and domestic purposes or for furnishing  
9 or equipping the family residence;

10 (i) a truck canopy cover or topper weighing less than  
11 300 pounds and having no accommodations attached. Such  
12 property is also exempt from taxation under 61-3-504(2) and  
13 61-3-537.

14 (j) a bicycle, as defined in 61-1-123, used by the  
15 owner for personal transportation purposes;

16 (k) motor homes, travel trailers, and campers;

17 ~~††--all-watercraft;~~

18 ~~††(l)~~ land, fixtures, buildings, and improvements  
19 owned by a cooperative association or nonprofit corporation  
20 organized to furnish potable water to its members or  
21 customers for uses other than the irrigation of agricultural  
22 land;

23 ~~††(m)~~ the right of entry that is a property right  
24 reserved in land or received by mesne conveyance (exclusive  
25 of leasehold interests), devise, or succession to enter land

1 whose surface title is held by another to explore, prospect,  
2 or dig for oil, gas, coal, or minerals;

3 ~~††(n)~~ property owned and used by a corporation or  
4 association organized and operated exclusively for the care  
5 of the developmentally disabled, mentally ill, or  
6 vocationally handicapped as defined in 18-5-101, which is  
7 not operated for gain or profit;

8 ~~††(o)~~ all farm buildings with a market value of less  
9 than \$500 and all agricultural implements and machinery with  
10 a market value of less than \$100; and

11 ~~††(p)~~ property owned by a nonprofit corporation  
12 organized to provide facilities primarily for training and  
13 practice for or competition in international sports and  
14 athletic events and not held or used for private or  
15 corporate gain or profit. For purposes of this subsection  
16 ~~††(q)~~ (l)(p), "nonprofit corporation" means an organization  
17 exempt from taxation under section 501(c) of the Internal  
18 Revenue Code and incorporated and admitted under the Montana  
19 Nonprofit Corporation Act.

20 (2) (a) The term "institutions of purely public  
21 charity" includes organizations owning and operating  
22 facilities for the care of the retired or aged or  
23 chronically ill, which are not operated for gain or profit.

24 (b) The terms "public art galleries" and "public  
25 observatories" include only those art galleries and

observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

**Section 2.** Section 15-8-201, MCA, is amended to read:

"15-8-201. General assessment day. (1) The department of revenue or its agent must, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county. The department or its agent must assess property to the person by whom it was owned or claimed or in whose possession or control it was at midnight of January 1 next preceding. It must also ascertain and assess all mobile homes arriving in the county after midnight of January 1 next preceding. No mistake in the name of the owner or supposed owner of real property, however, renders the assessment invalid.

(2) The procedure provided by this section may not apply to:

(a) motor vehicles that are required by 15-8-202 to be assessed on January 1 or upon their anniversary registration date;

(b) motor homes, travel trailers, and campers;

~~(c) watercraft;~~

~~(d)~~ (c) livestock;

~~(e)~~ (d) property defined in 61-1-104 as "special mobile equipment" that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate; and

~~(f)~~ (e) mobile homes held by a distributor or dealer of mobile homes as a part of his stock in trade.

(3) Credits must be assessed as provided in 15-1-101(1)(f)."

**Section 3.** Section 15-16-202, MCA, is amended to read:

"15-16-202. Boats, snowmobiles, and motor vehicles -- payment of current and back taxes and fees. (1) The fee in lieu of personal property taxes assessed against a boat for the year in which application for decals is made and the immediately previous year must be paid before license decals may be issued pursuant to 23-2-515.

(2) The fee in lieu of tax imposed on a snowmobile for the year in which application for registration is made and

1 the immediately previous year must be paid before a  
2 snowmobile may be registered pursuant to 23-2-616.

3 (3) Except for mobile homes as defined in 15-1-101,  
4 the new motor vehicle sales tax and the personal property  
5 tax or fee in lieu of tax imposed or assessed against a  
6 motor vehicle for the current year and the immediately  
7 previous year must be paid before a motor vehicle may be  
8 registered or reregistered pursuant to 61-3-303.

9 (4) The provisions of subsections 1 through 3 do not  
10 require payment of the immediately previous year's taxes or  
11 fees if such taxes or fees have already been paid."

12 **Section 4.** Section 23-2-512, MCA, is amended to read:

13 "23-2-512. Identification number. (1) The owner of  
14 each motorboat or sailboat requiring numbering by this state  
15 shall file an application for number in the office of the  
16 county treasurer where the motorboat or sailboat is owned on  
17 forms prepared and furnished by the department of justice.  
18 The application must be signed by the owner of the motorboat  
19 or sailboat and be accompanied by a fee of \$2. Any  
20 alteration, change, or false statement contained in the  
21 application will render the certificate of number void. Upon  
22 receipt of the application in approved form, the county  
23 treasurer shall issue to the applicant a certificate of  
24 number prepared and furnished by the department of justice,  
25 stating the number assigned to the motorboat or sailboat and

1 the name and address of the owner.

2 (2) The applicant, upon the filing of the application,  
3 shall pay to the county treasurer the fee--in--lieu--of tax  
4 required for--a--motorboat-10-feet-in-length-or-longer-or-a  
5 sailboat-12-feet-in-length-or-longer under 23-2-516 for the  
6 current year of certification before the application for  
7 certification or recertification may be accepted by the  
8 county treasurer.

9 (3) Should the ownership of a motorboat or sailboat  
10 change, a new application form with the certification fee  
11 must be filed within a reasonable time with the county  
12 treasurer and a new certificate of number assigned in the  
13 same manner as provided for in an original assignment of  
14 number.

15 (4) If an agency of the United States government has  
16 in force a comprehensive system of identification numbering  
17 for motorboats in the United States, the numbering system  
18 employed pursuant to this part by the department of justice  
19 must be in conformity.

20 (5) Every certificate of number and the license decals  
21 assigned under this part continues in effect for a period  
22 not to exceed 1 year unless terminated or discontinued in  
23 accordance with the provisions of this part. Certificates of  
24 number and license decals must show the date of expiration  
25 and may be renewed by the owner in the same manner provided

for in the initial securing of the certificate.

(6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed under this part.

(7) In event of transfer of ownership, the purchaser shall furnish the county treasurer notice within a reasonable time of the acquisition of all or any part of his interest, other than the creation of a security interest, in a motorboat or sailboat numbered in this state or of the loss, theft, destruction, or abandonment of the motorboat or sailboat. The transfer, loss, theft, destruction, or abandonment terminates the certificate of number for the motorboat or sailboat. Recovery from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat or sailboat does not terminate the certificate of number.

(8) A holder of a certificate of number shall notify the county treasurer within reasonable time if his address no longer conforms to the address appearing on the certificate and furnish the county treasurer with his new address. The department of justice may provide by rule for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

(9) (a) The number assigned must be painted on or attached to each outboard side of the forward half of the motorboat or sailboat or, if there are no such sides, at a corresponding location on both outboard sides of the foredeck of the motorboat or sailboat. The number assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as to be clearly visible and legible. The number may not be placed on the obscured underside of the flared bow where it cannot be easily seen from another vessel or ashore. No numerals, letters, or devices other than those used in connection with the identifying number issued may be placed in the proximity of the identifying number. No numerals, letters, or devices that might interfere with the ready identification of the motorboat or sailboat by its identifying number may be carried as to interfere with the motorboat's or sailboat's identification. No number other than the number and license decal assigned to a motorboat or sailboat or granted reciprocity under this part may be painted, attached, or otherwise displayed on either side of the forward half of the motorboat or sailboat.

(b) The certificate of number shall be pocket size and available to federal, state, or local law enforcement

1 officers at all reasonable times for inspection on the  
2 motorboat or sailboat whenever the motorboat or sailboat is  
3 on waters of this state.

4 (c) Boat liveries are not required to have the  
5 certificate of number on board each motorboat or sailboat,  
6 but a rental agreement must be carried on board livery  
7 motorboats or sailboats in place of the certificate of  
8 number.

9 (10) Fees, other than the fee-in-lieu-of tax imposed  
10 under 23-2-516, collected under this section shall be  
11 transmitted to the state treasurer, who shall deposit the  
12 fees in the motorboat or sailboat certificate identification  
13 account of the state special revenue fund. These fees shall  
14 be used only for the administration and enforcement of this  
15 part, as amended.

16 (11) An owner of a motorboat or sailboat must within a  
17 reasonable time notify the department of justice, giving the  
18 motorboat's or sailboat's identifying number and the owner's  
19 name when the motorboat or sailboat is transferred, lost,  
20 destroyed, abandoned, or frauded or within 60 days after  
21 change of state of principal use or if a motorboat becomes  
22 documented as a vessel of the United States."

23 **Section 5.** Section 23-2-515, MCA, is amended to read:

24 "23-2-515. License decals to be displayed. (1) Every  
25 Montana motorboat or sailboat numbered in accordance with

1 the provisions of 23-2-512 and 23-2-513 shall be required to  
2 display license decals. For this purpose the county  
3 treasurer, upon proof of payment of the fee--in--lieu--of  
4 property tax for motorboats-10-feet-in-length-or-longer-and  
5 sailboats-12--feet--in--length--or--longer as required by  
6 15-16-202, shall issue a pair of decals prepared and  
7 furnished by the department of justice with all new  
8 certificates of number and renewals thereof.

9 (2) The decals shall be of a style and design  
10 prescribed by the department of justice and shall be a color  
11 differing from the preceding year. The license decal will be  
12 serially numbered and have the expiration date of December  
13 31 of the appropriate year printed thereon.

14 (3) License decals shall be displayed only in the  
15 following manner: one valid license decal on each side of  
16 the forward half, 3 inches aft of the identifying numbers."

17 **Section 6.** Section 23-2-516, MCA, is amended to read:

18 "23-2-516. Fee--in--lieu--of Personal property tax for  
19 motorboats-10-feet-in-length-or-longer-and-sailboats-12-feet  
20 in-length-or-longer on watercraft. (1) There is a fee--in  
21 lieu--of personal property tax as-prescribed-in-23-2-517  
22 imposed on motorboats--10--feet--in--length--or--longer--and  
23 sailboats--12--feet-in-length-or-longer watercraft. The fee  
24 tax is in addition to the annual fee required by 23-2-512  
25 for filing of the application for a certificate of number.

The amount of tax on watercraft is the greater of 3.33% of the value determined under 23-2-517 or \$7.50.

(2) The fee tax imposed by subsection (1) need not be paid by a dealer for motorboats or sailboats watercraft that constitute inventory of the dealership. ~~{Applicable--to motorboats--and--sailboats--registered--on--or--after--January--1, 1988--}~~"

**Section 7.** Section 23-2-517, MCA, is amended to read:

"23-2-517. Fees---for---motorboats---and---sailboats Assessment of watercraft. ~~{1}--The owner of--a--motorboat--10 feet--in--length--or--longer--or--a--sailboat--12--feet--in--length--or--longer--shall--pay--a--fee--based--on--the--length--of--the--motorboat--or--sailboat--~~

~~{2}--The fee for a motorboat at least 10 feet in length but less than 14 feet in length or sailboat at least 12 feet in length but less than 14 feet in length is \$7.50.~~

~~{3}--The fee for a motorboat or sailboat at least 14 feet in length but less than 16 feet in length is \$15.~~

~~{4}--The fee for a motorboat or sailboat at least 16 feet in length but less than 17 feet in length is \$32.~~

~~{5}--The fee for a motorboat or sailboat at least 17 feet in length but less than 19 feet in length is \$3 a foot or fraction of a foot.~~

~~{6}--The fee for a motorboat or sailboat 19 feet in length or longer is \$4 a foot or fraction of a foot.~~

~~{Applicable--to--motorboats--and--sailboats--registered--on--or--after--January--1, 1988--}~~

(1) Watercraft are assessed for personal property taxes on January 1 of each year, using the low value as of that date as contained in the most recent volume of the applicable blue book of the abos marine publications division of intertec publishing corporation. If the value shown in the blue book is less than \$300, the department of revenue or its agent shall value the watercraft at \$300 so long as the watercraft remains subject to taxation in the state.

(2) If a watercraft is not originally listed in the applicable blue book, the department of revenue or its agent shall depreciate the original f.o.b. factory list price, f.o.b. port-of-entry list price, or the manufacturer's suggested list price using the following methods:

(a) if the watercraft is less than 1 year old, the depreciation percentage is 20%; or

(b) if the watercraft is 1 year old or older and it is not listed in the applicable blue book, the department or its agent shall determine the depreciation percentage to approximate the low value in the current blue book or \$300, whichever is higher. For purposes of this subsection (2), the age of the watercraft is determined by subtracting the manufacturer's model year of the watercraft from the calendar year of assessment.

(3) If a watercraft is no longer listed in the applicable blue book, the department of revenue or its agent shall depreciate the value of the watercraft at the rate of 10% a year until a minimum amount of \$300 is attained, and the value must remain at that amount so long as the watercraft is subject to taxation in the state."

**Section 8.** Section 23-2-518, MCA, is amended to read:

"23-2-518. Disposition of fees-in-lieu-of tax. The county treasurer shall distribute all fees-in-lieu-of-tax personal property taxes collected on motorboats-10--feet--in length--or--longer-and-sailboats-12-feet-in-length-or-longer watercraft pursuant to 23-2-516 and-23-2-517 in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as other personal property taxes are distributed. {Applicable--to motorboats--and--sailboats-registered-on-or-after-January-1, 1988-}"

**Section 9.** Section 23-2-519, MCA, is amended to read:

"23-2-519. Penalty -- disposition. (1) Failure to pay the fee-in-lieu-of personal property tax as provided for in 23-2-517 23-2-516 is a misdemeanor, punishable by a fine equal to five times the fee in lieu of tax that is due on the motorboat-or-sailboat watercraft for the current year of registration.

(2) All fines collected pursuant to subsection (1)

must be distributed in the following ratio:

(a) 50% to the general fund of the county in which the motorboat-or-sailboat watercraft is issued a certification number, if any; and

(b) 50% to the motorboat account of the state special revenue fund for use by the department in the enforcement of this part, unless the watercraft for which the fine is imposed is not required to be certified, in which case 100% of the fine must be distributed to the motorboat account of the state special revenue fund to be used for enforcement. {Applicable-to-motorboats-and--sailboats--registered--on--or after-January-1, 1988-}"

**NEW SECTION. Section 10.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

**NEW SECTION. Section 11.** Applicability date. [This act] applies to watercraft registered after December 31, 1989.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB149, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to replace the fee in lieu of tax on boats with a property tax; and providing an applicability date.

ASSUMPTIONS:

1. The market value of all watercraft subject to the proposed personal property tax will be \$39,154,369 in each year of the 1991 biennium (actual 1987 market value from county assessor's report).
2. All watercraft owners will pay personal property tax at the rate of 3.33% of market value.
3. On average, a total of 270.4 mills is applied to personal property distributed as follows: university system 6 mills, school foundation program 45 mills, counties 70.4 mills, school districts 126.7 mills, and cities and towns 22.3 mills.
4. Additional annual Department of Revenue expenditures will include 2.3 FTE's @ 16,671 per FTE; \$200 for rules, \$6,000 for abos marine blue books, and \$500 for forms.
5. Data indicating the amount of tax currently being collected under the Fee in Lieu of Tax are not available; consequently, the fiscal impact section does not provide a comparison of current and proposed revenues.

FISCAL IMPACT:Revenue Impact:

Revenue from the proposed personal property tax should be \$1,303,840 in each fiscal year. Of this amount \$28,931 will be distributed to the universities, and \$216,985 will be distributed to the school foundation program.

Expenditure Impact:General Fund

	<u>FY90</u>			<u>FY91</u>		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 0	\$ 38,343	\$ 38,343	\$ 0	\$ 38,343	\$ 38,343
Operating Expense	0	6,700	6,700	0	6,700	6,700
Total	\$ 0	\$ 45,043	\$ 45,043	\$ 0	\$ 45,043	\$ 45,043

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURE:

Counties will receive \$339,461, school districts will receive \$610,934, and cities and towns will receive \$107,528 in each fiscal year.

*Ray Shackelford*

1/23/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Cecil Weeding*

1/24/89

CECIL WEEDING, PRIMARY SPONSOR

DATE

Fiscal Note for SB149, as introduced

**SB149**