

House BILL NO. 24

INTRODUCED BY

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF RAILROAD CAR COMPANIES; TAXING RAILROAD CAR COMPANY PROPERTY AS CLASS TWELVE PROPERTY; APPROPRIATING MONEY FOR THE IMPLEMENTATION OF THE REVISED METHOD OF TAXATION; PROVIDING FOR TRANSITION TO THE REVISED METHOD OF TAXATION FOR TAX YEARS 1991 AND 1992; AMENDING SECTIONS 15-6-145, 15-23-101, 15-23-103, 15-23-104, 15-23-105, 15-23-201, AND 20-15-403, MCA; REPEALING SECTIONS 15-55-101, 15-55-102, 15-55-103, 15-55-104, 15-55-105, 15-55-106, 15-55-108, 15-55-109, 15-55-110, AND 15-55-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

The intent of [this act] is to ensure that the taxation of property belonging to railroad car companies is within the requirements of the Railroad Revitalization and Regulatory Reform Act of 1976. To make the transition in changing the method of assessing the property for taxation, additional funding will be required. For this reason, [this act] appropriates additional funds to the department of

revenue for fiscal year 1993.

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

Section 1. Section 15-6-145, MCA, is amended to read:

"15-6-145. Class twelve property -- description -- taxable percentage. (1) Class twelve property includes all property of a railroad car company as defined in [section 7], all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%, whichever is less.

(3) R = A/B where:

(a) A is the total statewide taxable value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d); and

(b) B is the total statewide market value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d).

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall

1 conduct a sales assessment ratio study of all commercial and
2 industrial real property and improvements. The study must be
3 based on:

4 (i) assessments of such property as of January 1 of the
5 year for which the study is being conducted; and

6 (ii) a statistically valid sample of sales using data
7 from realty transfer certificates filed during the same
8 taxable year or from the immediately preceding taxable year,
9 but only if a sufficient number of certificates is
10 unavailable from the current taxable year to provide a
11 statistically valid sample.

12 (b) The department shall determine the value-weighted
13 mean sales assessment ratio "M" for all such property and
14 reduce the taxable value of property described in subsection
15 (4) only, by multiplying the total statewide taxable value
16 of property described in subsection (4)(a) by "M" prior to
17 calculating "A" in subsection (3)(a).

18 (c) The adjustment referred to in subsection (4)(b)
19 will be made beginning January 1, 1986, and in each
20 subsequent tax year to equalize the railroad taxable values.

21 (5) For the purpose of complying with the Railroad
22 Revitalization and Regulatory Reform Act of 1976, as it read
23 on January 1, 1986, the rate "R" referred to in this section
24 is the equalized average tax rate generally applicable to
25 commercial and industrial property, except class twelve

1 property, as commercial property is defined in
2 15-1-101(1)(d)."

3 **Section 2.** Section 15-23-101, MCA, is amended to read:

4 "15-23-101. Properties centrally assessed. The
5 department of revenue shall centrally assess each year:

6 (1) the franchise, roadway, roadbeds, rails, rolling
7 stock, and all other operating property of railroads and
8 railroad car companies operating in more than one county in
9 the state or more than one state;

10 (2) property owned by a corporation or other person
11 operating a single and continuous property operated in more
12 than one county or more than one state, including telegraph,
13 telephone, microwave, electric power or transmission lines;
14 natural gas or oil pipelines; canals, ditches, flumes, or
15 like properties and including, 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, property constructed, owned, or operated
19 by a public agency created by the congress to transmit or
20 distribute electric energy produced at privately owned
21 generating facilities (not including rural electric
22 cooperatives);

23 (3) all property of scheduled airlines;

24 (4) the net proceeds of mines and of oil and gas wells;

25 (5) the gross proceeds of coal mines; and

1 (6) property described in subsections (1) and (2) which
2 is subject to the provisions of Title 15, chapter 24, part
3 12."

4 **Section 3.** Section 15-23-103, MCA, is amended to read:

5 "15-23-103. Due date of reports and returns --
6 extensions. (1) Except as provided in subsection (2) and
7 15-23-602, each report or return described in 15-23-301,
8 15-23-402, 15-23-502, or 15-23-701 shall be delivered to the
9 department on or before March 31 each year.

10 (2) Each report or return for a natural gas or oil
11 pipeline described in 15-23-301 must be delivered to the
12 department on or before April 15 each year.

13 (3) Each report described in 15-23-201, 15-23-515, or
14 15-23-516, or [section 8] must be delivered to the
15 department before April 15 each year.

16 (4) The department may for good cause extend the time
17 for filing a return or report for not more than 30 days."

18 **Section 4.** Section 15-23-104, MCA, is amended to read:

19 "15-23-104. Failure to file -- estimate by department
20 -- penalty. (1) If any person fails to file a report or
21 return within the time established in 15-23-103 or by such
22 later date as the department may approve, the department
23 shall estimate the value of the property to have been
24 reported on the basis of the best available information. In
25 estimating the value of the net proceeds of mines, the

1 department shall proceed under 15-23-506, and in estimating
2 the value of the gross proceeds of coal mines, the
3 department shall proceed under 15-35-107. In estimating the
4 value of all other property subject to assessment under
5 parts 2 through 4 of this chapter, the department shall
6 proceed under 15-1-303. In estimating value under this
7 section, the department may subpoena a person or his agent
8 as specified in 15-1-302. An assessment pursuant to parts 5
9 through 8 of this chapter based on estimated value or
10 imputed value is subject to review under 15-1-211. Each
11 month or part of a month a report is delinquent, the
12 department shall impose and collect a \$25 penalty, the total
13 not to exceed \$200, and shall deposit such penalty to the
14 credit of the general fund. The department will also inform
15 its agents in the counties of the delinquency, and, except
16 as provided in [subsection (2)], the agents shall assess a
17 penalty of 1% of the tax due for each month or part of a
18 month the report is delinquent.

19 (2) For a delinquency in reporting under [section 8],
20 the department shall assess a penalty of 1% of the tax due
21 for each month or part of a month that the report is
22 delinquent."

23 **Section 5.** Section 15-23-105, MCA, is amended to read:

24 "15-23-105. Apportionment among counties. The
25 department shall apportion the value of property assessed

1 under 15-23-101, 15-23-202, or 15-23-403, other than
 2 railroad car company property, among the counties in which
 3 such property is located. Apportionment shall be on a
 4 mileage basis or on the basis of the original installed cost
 5 of the centrally assessed property located in the respective
 6 counties. If the property is of such a character that its
 7 value cannot reasonably be apportioned on the basis of
 8 mileage or on the basis of the original installed cost of
 9 the centrally assessed property located in the respective
 10 counties, the department may adopt such other method or
 11 basis of apportionment as may be just or proper."

12 **Section 6.** Section 15-23-201, MCA, is amended to read:

13 "15-23-201. **Assessment of railroads.** The president,
 14 secretary, or managing agent or such other officer as the
 15 department of revenue may designate of any corporation and
 16 each person or association of persons owning or operating
 17 any railroad in more than one county in this state or more
 18 than one state must on or before April 15 each year furnish
 19 the department a statement signed and sworn to by one of
 20 such officers or by the person or one of the persons forming
 21 such association, showing in detail for the year ending
 22 December 31 immediately preceding:

23 (1) the whole number of miles of railroad in the state
 24 and, where the line is partly out of the state, the whole
 25 number of miles without the state and the whole number

1 within the state, owned or operated by such corporation,
 2 person, or association;

3 (2) the value of the roadway, roadbed, and rails of the
 4 whole railroad and the value of the same within the state;

5 (3) the width of the right-of-way;

6 (4) the number of each kind of all rolling stock used
 7 by such corporation, person, or association in operating the
 8 entire railroad, including the part without the state;

9 (5) the number, kind, and value of rolling stock owned
 10 and operated in the state;

11 (6) the number, kind, and value of rolling stock used
 12 in the state but not owned by the party making the returns;

13 (7) the number, kind, and value of rolling stock owned
 14 but used out of the state, either upon divisions of road
 15 operated by the party making the returns or by and upon
 16 other railroads;

17 (8) the whole number of sidetracks in each county,
 18 including the number of miles of track in each railroad yard
 19 in the state;

20 (9) the number of each kind of rolling stock used in
 21 operating the entire railroad, including the part without
 22 the state, which must include a detailed statement of the
 23 number and value thereof of all engines; passenger, mail,
 24 express, baggage, freight, and other cars; or property owned
 25 or leased by such corporation, person, or association;

1 (10) the number of sleeping and dining cars not owned by
2 such corporation, person, or association, but used in
3 operating the railroads of such corporation, person, or
4 association in the state or on the line of the road without
5 the state during each month of the year for which the return
6 is made; also the number of miles each month the cars have
7 been run or operated within and without the state;

8 (11) a description of the road, giving the points of
9 entrance into and the points of exit from each county, with
10 a statement of the number of miles in each county. When a
11 description of the road has once been given, no other annual
12 description thereof is necessary unless the road has been
13 changed. Whenever the road or any portion of the road is
14 advertised to be sold or is sold for taxes, either state or
15 county, no other description is necessary than that given
16 by, and the same is conclusive upon, the person,
17 corporation, or association giving the description. No
18 assessment is invalid on account of a misdescription of the
19 railroad or the right-of-way for the same. If such statement
20 is not furnished as above provided, the assessment made by
21 the department upon the property of the corporation, person,
22 or association failing to furnish the statement is
23 conclusive and final.

24 (12) the gross earnings of the entire road;

25 (13) the gross earnings of the road within the state

1 and, if the railroad is let to other operators, how much was
2 derived by the lessor as rental;

3 (14) the cost of operating the entire road, exclusive of
4 sinking fund, expenses of land department, and money paid to
5 the United States;

6 (15) net income for such year and amount of dividend
7 declared;

8 (16) capital stock authorized;

9 (17) capital stock paid in;

10 (18) funded debt;

11 (19) number of shares authorized;

12 (20) number of shares of stock issued;

13 (21) number, kind, and total number of miles traveled
14 within the state by railroad cars owned by railroad car
15 companies; and

16 ~~(21)~~(22) any other facts the department may require."

17 NEW SECTION. Section 7. Definitions. As used in
18 [sections 7 through 13], unless the context requires
19 otherwise, the following definitions apply:

20 (1) "Average levy" means the rate of taxation
21 determined under 15-24-103.

22 (2) "Person" includes an individual, firm, association,
23 company, partnership, corporation, joint-stock company,
24 agency, syndicate, or cooperative.

25 (3) "Private railroad cars" means all railroad cars

1 that:

2 (a) are not owned by a railroad company operating in
3 this state;

4 (b) are used for transporting persons or freight; and

5 (c) are not otherwise taxed in this state.

6 (4) "Railroad car company" means any person, other than
7 a railroad company, engaged in operating, leasing, or
8 furnishing private railroad cars, whether or not owned by
9 that person, for the transportation of persons or freight
10 over railroad lines located wholly or partially within this
11 state.

12 NEW SECTION. Section 8. Annual report. Each railroad
13 car company shall, annually and within the time requirements
14 of 15-23-103(3) and (4), file with the department of revenue
15 a report, signed and sworn to by one of its designated
16 officers, that provides the following information as of the
17 preceding December 31:

18 (1) the name and nature of the business of the company;

19 (2) the number, kind, acquisition cost, date of
20 acquisition, and name of owner of its private railroad cars
21 used outside of the state;

22 (3) the cost of additions and betterment, special
23 equipment, racks, protective equipment, or any other
24 modification or improvement to a car since acquisition;

25 (4) the total car miles traveled, loaded and unloaded,

1 within the state during the calendar year preceding the date
2 of filing;

3 (5) the total car miles traveled, loaded and unloaded,
4 within and outside of the state during the calendar year
5 preceding the date of filing;

6 (6) the average number of miles traveled by each class
7 of car during the year;

8 (7) the description and location of real and personal
9 property that is owned by the railroad car company and that
10 is subject to taxation within this state; and

11 (8) any other facts the department may require.

12 NEW SECTION. Section 9. Assessment -- allocation --
13 taxable value. (1) The department of revenue shall assess
14 the property in the name of the railroad car company owning
15 the property unless the property is reported by another
16 person leasing or operating the property.

17 (2) The allocation of property to this state must be
18 made on the basis of the car miles traveled within the state
19 to the total car miles traveled unless the department
20 determines that a different formula should be applied.

21 (3) In determining taxable value, the department shall
22 use the percentage rate "R", as provided in 15-6-145, to
23 achieve compliance with the requirements of the federal
24 Railroad Revitalization and Regulatory Reform Act of 1976,
25 as amended.

1 **NEW SECTION. Section 10.** Determination of tax --
 2 **payment.** (1) On or before the third Monday in October, the
 3 department of revenue shall compute the tax on railroad car
 4 company property by multiplying the taxable value of the
 5 property by the average levy.
 6 (2) After determining the tax, the department shall
 7 send to the last-known address of each railroad car company
 8 subject to taxation a written notice, postage prepaid,
 9 showing the amount of taxes due for the current year and any
 10 delinquent amount for prior years. The notice must include
 11 the taxable value of the property and the average levy used
 12 to compute the tax.
 13 (3) The tax is due and payable to the department under
 14 the provisions of 15-16-102 that pertain to time for
 15 payment, penalty, and interest for delinquent taxes. A tax
 16 not received by the department within the time requirements
 17 of 15-16-102 is delinquent.
 18 **NEW SECTION. Section 11.** Deposit of taxes. All taxes,
 19 penalties, and interest collected by the department of
 20 revenue under [sections 7 through 13] must be deposited in
 21 the general fund.
 22 **NEW SECTION. Section 12.** Lien -- collection actions.
 23 (1) A tax due under [sections 7 through 13] is a lien on all
 24 real and personal property of the railroad car company to
 25 the same extent as are other taxes under 15-16-401 and

1 15-16-402.
 2 (2) The department may at any time after the taxes are
 3 delinquent use the following collection actions:
 4 (a) seizure and sale of personal property, as provided
 5 in 15-17-911, with the department having the same authority
 6 as the county treasurer;
 7 (b) suit for collection in district court; or
 8 (c) issuance of a warrant for distraint, as provided in
 9 Title 15, chapter 1, part 7.
 10 (3) The use of one collection method does not prevent
 11 the department from using other collection methods.
 12 **NEW SECTION. Section 13.** Transition. (1) On or before
 13 October 30, 1992, each railroad car company shall submit to
 14 the department of revenue the information needed to make an
 15 assessment and to compute the tax for tax year 1991. The
 16 department shall use the average levy for this computation
 17 and shall notify the railroad car companies of the amount of
 18 the taxes due. Taxes are due and payable as provided in
 19 [section 10].
 20 (2) Any freight line company license taxes paid by or
 21 on behalf of a railroad car company in 1992 for taxes owed
 22 under the provisions of Title 15, chapter 55, for tax year
 23 1991 must be credited against the tax owed by the company
 24 under [sections 7 through 13]. If the tax paid under Title
 25 15, chapter 55, exceeds the amount of tax owed under

1 [sections 7 through 13], the state treasurer shall refund
2 the difference without interest.

3 (3) On or before October 31, 1992, each railroad car
4 company shall submit to the department the information
5 needed to make the assessment and to compute the tax for tax
6 year 1992, as provided for in [sections 7 through 13]. The
7 department shall use the average levy for this computation
8 and shall notify the railroad car companies of the amount of
9 the taxes owed. The taxes for 1992 are due and payable under
10 the provisions of [section 10].

11 **Section 14.** Section 20-15-403, MCA, is amended to read:

12 "20-15-403. Applications of other school district
13 provisions. (1) When the term "school district" appears in
14 the following sections outside of Title 20, the term
15 includes community college districts and the provisions of
16 those sections applicable to school districts apply to
17 community college districts: 2-9-101, 2-9-111, 2-9-316,
18 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,
19 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106,
20 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204,
21 15-16-101, 15-16-601, ~~15-55-106~~, 15-70-301, 15-70-322,
22 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201,
23 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404,
24 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,
25 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,

1 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206,
2 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304,
3 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and
4 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as
5 amended.

6 (2) When the term "school district" appears in a
7 section outside of Title 20 but the section is not listed in
8 subsection (1), the school district provision does not apply
9 to a community college district."

10 NEW SECTION. **Section 15.** Appropriation. There is
11 appropriated \$70,000 from the general fund to the department
12 of revenue for fiscal year 1993 for the purpose of
13 administering [this act].

14 NEW SECTION. **Section 16.** Repealer. Sections 15-55-101,
15 15-55-102, 15-55-103, 15-55-104, 15-55-105, 15-55-106,
16 15-55-108, 15-55-109, 15-55-110, and 15-55-111, MCA, are
17 repealed.

18 NEW SECTION. **Section 17.** Codification instruction.
19 [Sections 7 through 12] are intended to be codified as an
20 integral part of Title 15, chapter 23, and the provisions of
21 Title 15, chapter 23, apply to [sections 7 through 12].

22 NEW SECTION. **Section 18.** Effective date -- retroactive
23 applicability. [This act] is effective on passage and
24 approval and applies retroactively, within the meaning of
25 1-2-109, to tax years beginning after December 31, 1990.

LC 0061/01

1 NEW SECTION. **Section 19. Termination.** [Section 13]

2 terminates January 1, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0024, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the taxation of railroad car companies; taxing railroad car company property as class twelve property; appropriating money for the implementation of the revised method of taxation for tax years 1991 and 1992; and providing an immediate effective date and a retroactive applicability date.


ASSUMPTIONS:

1. Under current law, it costs approximately \$500 to administer the freight line company license tax. There are 20 filers and the department processes the taxes collected.
2. Under current law, revenue collected under the freight line company license tax was \$1.272 million in FY 92. Under the proposal this tax is repealed but fiscal year 1992 collections would apply as credit towards property tax owed for tax year 1991, as the provisions of the bill are retroactive to tax year 1991.
3. Under current law, revenue projected under the freight line company license tax is \$1.268 million for FY 93 (OBPP). Under the proposal this money would not be collected and would be replaced by property tax.
4. Under the proposal, railroad car companies would be taxed as class 12 property; which has a tax rate of 7.54% for tax year 1991 and 7.53% for tax year 1992.
5. Under the proposal, railroad cars would be subject to the average mill calculated under 15-24-103, MCA. 1991 taxable value is subject to 326.56 mills and 1992 taxable value is subject to 339.47 mills.
6. Taxes for tax year 1991 would be due within 30 days of notification. (See technical note, below.)
7. Property taxes for tax year 1992 would be due: half by November 30, 1992 or 30 days from notification and the second half by May 31, 1993.
8. Implementation of this proposal would require, for FY 93, two additional FTE at Grade 14, at a cost of \$52,349; a capital outlay of \$9,290; and operating expenses of \$8,650.

FISCAL IMPACT:

Expenditures:

	FY '93		
	Current Law	Proposed Law	Difference
F.T.E.	0	2.00	2.00
Personal Services	0	52,349	52,349
Operating Expense	500	8,650	8,150
Capital Outlay	0	9,290	9,290
Total	500	70,289	69,789


 STEVE YEAKEL, BUDGET DIRECTOR DATE 7/16/92
 Office of Budget and Program Planning


 BEN COHEN, PRIMARY SPONSOR DATE 7-16-92
 Fiscal Note for HB0024, as introduced

HB 24

Fiscal Note Request HB0024, as introduced
Form BD-15 page 2
(continued)

Revenues:

Preliminary figures regarding the appraisal of the largest railroad car company indicate a property tax liability for tax year 1991 of approximately \$760,000. Given that there are at least 169 other railroad car companies the department believes the 1991 property tax on all companies will at least match the 1.2 million dollars collected from the repealed freight line car company tax.

Since this proposal repeals 15-55-105, MCA, railroad car companies could also be subject to corporation license tax in addition to property taxes. Information is not available to make a estimate of this possible income.

TECHNICAL NOTES:

This proposal is unclear as to when property taxes for tax year 1991 would be due so assumption number 5 is made assuming that wording would be changed to incorporate the 30 days after notification.

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 24
 2 INTRODUCED BY COHEN
 3 BY REQUEST OF THE GOVERNOR
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION
 6 OF RAILROAD CAR COMPANIES; TAXING RAILROAD CAR COMPANY
 7 PROPERTY AS CLASS TWELVE PROPERTY; ~~APPROPRIATING--MONEY--FOR~~
 8 ~~THE--IMPLEMENTATION--OF--THE--REVISED--METHOD--OF--TAXATION;~~
 9 PROVIDING FOR TRANSITION TO THE REVISED METHOD OF TAXATION
 10 FOR TAX YEARS 1991 AND 1992; AMENDING SECTIONS 15-6-145,
 11 15-23-101, 15-23-103, 15-23-104, 15-23-105, 15-23-201, AND
 12 20-15-403, MCA; REPEALING SECTIONS 15-55-101, 15-55-102,
 13 15-55-103, 15-55-104, 15-55-105, 15-55-106, 15-55-108,
 14 15-55-109, 15-55-110, AND 15-55-111, MCA; AND PROVIDING AN
 15 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
 16 DATE."

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 18 STATEMENT OF INTENT
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 11 property as described in the Tax Equity and Fiscal
 12 Responsibility Act of 1982 as it read on January 1, 1986.
 13 (2) For the tax year beginning January 1, 1991, and for
 14 each tax year thereafter, class twelve property is taxed at
 15 the percentage rate "R", to be determined by the department
 16 as provided in subsection (3), or 12%, whichever is less.
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 19 commercial property, except class twelve property, as
 20 commercial property is described in 15-1-101(1)(d); and
 21 (b) B is the total statewide market value of all
 22 commercial property, except class twelve property, as
 23 commercial property is described in 15-1-101(1)(d).
 24 (4) (a) For the taxable year beginning January 1, 1986,
 25 and for every taxable year thereafter, the department shall



1 conduct a sales assessment ratio study of all commercial and
2 industrial real property and improvements. The study must be
3 based on:

4 (i) assessments of such property as of January 1 of the
5 year for which the study is being conducted; and

6 (ii) a statistically valid sample of sales using data
7 from realty transfer certificates filed during the same
8 taxable year or from the immediately preceding taxable year,
9 but only if a sufficient number of certificates is
10 unavailable from the current taxable year to provide a
11 statistically valid sample.

12 (b) The department shall determine the value-weighted
13 mean sales assessment ratio "M" for all such property and
14 reduce the taxable value of property described in subsection
15 (4) only, by multiplying the total statewide taxable value
16 of property described in subsection (4)(a) by "M" prior to
17 calculating "A" in subsection (3)(a).

18 (c) The adjustment referred to in subsection (4)(b)
19 will be made beginning January 1, 1986, and in each
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21 (5) For the purpose of complying with the Railroad
22 Revitalization and Regulatory Reform Act of 1976, as it read
23 on January 1, 1986, the rate "R" referred to in this section
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9 the state or more than one state;

10 (2) property owned by a corporation or other person
11 operating a single and continuous property operated in more
12 than one county or more than one state, including telegraph,
13 telephone, microwave, electric power or transmission lines;
14 natural gas or oil pipelines; canals, ditches, flumes, or
15 like properties and including, 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, property constructed, owned, or operated
19 by a public agency created by the congress to transmit or
20 distribute electric energy produced at privately owned
21 generating facilities (not including rural electric
22 cooperatives);

23 (3) all property of scheduled airlines;

24 (4) the net proceeds of mines and of oil and gas wells;

25 (5) the gross proceeds of coal mines; and

1 (6) property described in subsections (1) and (2) which
2 is subject to the provisions of Title 15, chapter 24, part
3 12."

4 **Section 3.** Section 15-23-103, MCA, is amended to read:

5 "15-23-103. Due date of reports and returns --
6 extensions. (1) Except as provided in subsection (2) and
7 15-23-602, each report or return described in 15-23-301,
8 15-23-402, 15-23-502, or 15-23-701 shall be delivered to the
9 department on or before March 31 each year.

10 (2) Each report or return for a natural gas or oil
11 pipeline described in 15-23-301 must be delivered to the
12 department on or before April 15 each year.

13 (3) Each report described in 15-23-201, 15-23-515, or
14 15-23-516, or [section 8] must be delivered to the
15 department before April 15 each year.

16 (4) The department may for good cause extend the time
17 for filing a return or report for not more than 30 days."

18 **Section 4.** Section 15-23-104, MCA, is amended to read:

19 "15-23-104. Failure to file -- estimate by department
20 -- penalty. (1) If any person fails to file a report or
21 return within the time established in 15-23-103 or by such
22 later date as the department may approve, the department
23 shall estimate the value of the property to have been
24 reported on the basis of the best available information. In
25 estimating the value of the net proceeds of mines, the

1 department shall proceed under 15-23-506, and in estimating
2 the value of the gross proceeds of coal mines, the
3 department shall proceed under 15-35-107. In estimating the
4 value of all other property subject to assessment under
5 parts 2 through 4 of this chapter, the department shall
6 proceed under 15-1-303. In estimating value under this
7 section, the department may subpoena a person or his agent
8 as specified in 15-1-302. An assessment pursuant to parts 5
9 through 8 of this chapter based on estimated value or
10 imputed value is subject to review under 15-1-211. Each
11 month or part of a month a report is delinquent, the
12 department shall impose and collect a \$25 penalty, the total
13 not to exceed \$200, and shall deposit such penalty to the
14 credit of the general fund. The department will also inform
15 its agents in the counties of the delinquency, and, except
16 as provided in [subsection (2)], the agents shall assess a
17 penalty of 1% of the tax due for each month or part of a
18 month the report is delinquent.

19 (2) For a delinquency in reporting under [section 8],
20 the department shall assess a penalty of 1% of the tax due
21 for each month or part of a month that the report is
22 delinquent."

23 **Section 5.** Section 15-23-105, MCA, is amended to read:

24 "15-23-105. Apportionment among counties. The
25 department shall apportion the value of property assessed

1 under 15-23-101, 15-23-202, or 15-23-403, other than
 2 railroad car company property, among the counties in which
 3 such property is located. Apportionment shall be on a
 4 mileage basis or on the basis of the original installed cost
 5 of the centrally assessed property located in the respective
 6 counties. If the property is of such a character that its
 7 value cannot reasonably be apportioned on the basis of
 8 mileage or on the basis of the original installed cost of
 9 the centrally assessed property located in the respective
 10 counties, the department may adopt such other method or
 11 basis of apportionment as may be just or proper."

12 **Section 6.** Section 15-23-201, MCA, is amended to read:

13 "15-23-201. **Assessment of railroads.** The president,
 14 secretary, or managing agent or such other officer as the
 15 department of revenue may designate of any corporation and
 16 each person or association of persons owning or operating
 17 any railroad in more than one county in this state or more
 18 than one state must on or before April 15 each year furnish
 19 the department a statement signed and sworn to by one of
 20 such officers or by the person or one of the persons forming
 21 such association, showing in detail for the year ending
 22 December 31 immediately preceding:

23 (1) the whole number of miles of railroad in the state
 24 and, where the line is partly out of the state, the whole
 25 number of miles without the state and the whole number

1 within the state, owned or operated by such corporation,
 2 person, or association;

3 (2) the value of the roadway, roadbed, and rails of the
 4 whole railroad and the value of the same within the state;

5 (3) the width of the right-of-way;

6 (4) the number of each kind of all rolling stock used
 7 by such corporation, person, or association in operating the
 8 entire railroad, including the part without the state;

9 (5) the number, kind, and value of rolling stock owned
 10 and operated in the state;

11 (6) the number, kind, and value of rolling stock used
 12 in the state but not owned by the party making the returns;

13 (7) the number, kind, and value of rolling stock owned
 14 but used out of the state, either upon divisions of road
 15 operated by the party making the returns or by and upon
 16 other railroads;

17 (8) the whole number of sidetracks in each county,
 18 including the number of miles of track in each railroad yard
 19 in the state;

20 (9) the number of each kind of rolling stock used in
 21 operating the entire railroad, including the part without
 22 the state, which must include a detailed statement of the
 23 number and value thereof of all engines; passenger, mail,
 24 express, baggage, freight, and other cars; or property owned
 25 or leased by such corporation, person, or association;

1 (10) the number of sleeping and dining cars not owned by
2 such corporation, person, or association but used in
3 operating the railroads of such corporation, person, or
4 association in the state or on the line of the road without
5 the state during each month of the year for which the return
6 is made; also the number of miles each month the cars have
7 been run or operated within and without the state;

8 (11) a description of the road, giving the points of
9 entrance into and the points of exit from each county, with
10 a statement of the number of miles in each county. When a
11 description of the road has once been given, no other annual
12 description thereof is necessary unless the road has been
13 changed. Whenever the road or any portion of the road is
14 advertised to be sold or is sold for taxes, either state or
15 county, no other description is necessary than that given
16 by, and the same is conclusive upon, the person,
17 corporation, or association giving the description. No
18 assessment is invalid on account of a misdescription of the
19 railroad or the right-of-way for the same. If such statement
20 is not furnished as above provided, the assessment made by
21 the department upon the property of the corporation, person,
22 or association failing to furnish the statement is
23 conclusive and final.

24 (12) the gross earnings of the entire road;

25 (13) the gross earnings of the road within the state

1 and, if the railroad is let to other operators, how much was
2 derived by the lessor as rental;

3 (14) the cost of operating the entire road, exclusive of
4 sinking fund, expenses of land department, and money paid to
5 the United States;

6 (15) net income for such year and amount of dividend
7 declared;

8 (16) capital stock authorized;

9 (17) capital stock paid in;

10 (18) funded debt;

11 (19) number of shares authorized;

12 (20) number of shares of stock issued;

13 (21) number, kind, and total number of miles traveled
14 within the state by railroad cars owned by railroad car
15 companies; and

16 ~~(21)~~(22) any other facts the department may require."

17 NEW SECTION. Section 7. Definitions. As used in
18 [sections 7 through 13], unless the context requires
19 otherwise, the following definitions apply:

20 (1) "Average levy" means the rate of taxation
21 determined under 15-24-103.

22 (2) "Person" includes an individual, firm, association,
23 company, partnership, corporation, joint-stock company,
24 agency, syndicate, or cooperative.

25 (3) "Private railroad cars" means all railroad cars

1 that:

2 (a) are not owned by a railroad company operating in
3 this state;

4 (b) are used for transporting persons or freight; and

5 (c) are not otherwise taxed ASSESSED FOR PROPERTY
6 TAXATION in this state.

7 (4) "Railroad car company" means any person, other than
8 a railroad company, engaged in operating, leasing, or
9 furnishing private railroad cars, whether or not owned by
10 that person, for the transportation of persons or freight
11 over railroad lines located wholly or partially within this
12 state.

13 NEW SECTION. Section 8. Annual report. Each railroad
14 car company shall, annually and within the time requirements
15 of 15-23-103(3) and (4), file with the department of revenue
16 a report, signed and sworn to by one of its designated
17 officers, that provides the following information as of the
18 preceding December 31:

19 (1) the name and nature of the business of the company;

20 (2) the number, kind, acquisition cost, date of
21 acquisition, and name of owner of its private railroad cars
22 ~~used-outside-of-the-state;~~

23 (3) the cost of additions and betterment, special
24 equipment, racks, protective equipment, or any other
25 modification or improvement to a car since acquisition;

1 (4) the total car miles traveled, loaded and unloaded,
2 within the state during the calendar year preceding the date
3 of filing;

4 (5) the total car miles traveled, loaded and unloaded,
5 within and outside of the state during the calendar year
6 preceding the date of filing;

7 (6) the average number of miles traveled by each class
8 of car during the year;

9 (7) the description and location of real and personal
10 property that is owned by the railroad car company and that
11 is subject to taxation within this state; and

12 (8) any other facts the department may require.

13 NEW SECTION. Section 9. Assessment -- allocation --
14 taxable value. (1) The department of revenue shall assess
15 the property in the name of the railroad car company owning
16 the property unless the property is reported by another
17 person leasing or operating the property.

18 (2) The allocation of property to this state must be
19 made on the basis of the car miles traveled within the state
20 to the total car miles traveled unless the department
21 ~~determines-that~~ BY ADMINISTRATIVE RULE ADOPTS a different
22 formula ~~should-be-applied.~~

23 (3) In determining taxable value, the department shall
24 use the percentage rate "R", as provided in 15-6-145, to
25 achieve compliance with the requirements of the federal

1 Railroad Revitalization and Regulatory Reform Act of 1976,
2 as amended.

3 NEW SECTION. Section 10. Determination of tax --
4 payment. (1) On or before the third Monday in October, the
5 department of revenue shall compute the tax on railroad car
6 company property by multiplying the taxable value of the
7 property by the average levy.

8 (2) After determining the tax, the department shall
9 send to the last-known address of each railroad car company
10 subject to taxation a written notice, postage prepaid,
11 showing the amount of taxes due for the current year and any
12 delinquent amount for prior years. The notice must include
13 the taxable value of the property and the average levy used
14 to compute the tax.

15 (3) The tax is due and payable to the department under
16 the provisions of 15-16-102 ~~that--pertain--to--time--for~~
17 ~~payment, penalty, and interest for delinquent taxes.~~ A tax
18 not received by the department within the time requirements
19 of 15-16-102 is delinquent AND SUBJECT TO PENALTY AND
20 INTEREST UNDER THAT SECTION.

21 NEW SECTION. Section 11. Deposit of taxes. All taxes,
22 penalties, and interest collected by the department of
23 revenue under [sections 7 through 13] must be deposited in
24 the general fund.

25 NEW SECTION. Section 12. Lien -- collection actions.

1 (1) A tax due under [sections 7 through 13] is a lien on all
2 real and personal property of the railroad car company to
3 the same extent as are other taxes under 15-16-401 and
4 15-16-402.

5 (2) The department may at any time after the taxes are
6 delinquent use the following collection actions:

7 (a) seizure and sale of personal property, as provided
8 in 15-17-911, with the department having the same authority
9 as the county treasurer;

10 (b) suit for collection in district court; or

11 (c) issuance of a warrant for distraint, as provided in
12 Title 15, chapter 1, part 7.

13 (3) The use of one collection method does not prevent
14 the department from using other collection methods.

15 NEW SECTION. Section 13. Transition. (1) On or before
16 October 30 31, 1992, each railroad car company shall submit
17 to the department of revenue the information needed to make
18 an assessment and to compute the tax for tax year 1991. The
19 department shall use the average levy for this computation
20 and shall notify the railroad car companies of the amount of
21 the taxes due. Taxes are due and payable ~~as--provided--in~~
22 ~~{section--10}~~ WITHIN 30 DAYS AFTER THE TAX NOTICE IS
23 POSTMARKED.

24 (2) Any freight line company license taxes paid by or
25 on behalf of a railroad car company in 1992 for taxes owed

1 under the provisions of Title 15, chapter 55, for tax year
 2 1991 must be credited against the tax owed by the company
 3 under [sections 7 through 13]. If the tax paid under Title
 4 15, chapter 55, exceeds the amount of tax owed under
 5 [sections 7 through 13], the state treasurer shall refund
 6 the difference without interest.

7 (3) On or before October 31, 1992, each railroad car
 8 company shall submit to the department the information
 9 needed to make the assessment and to compute the tax for tax
 10 year 1992, as provided for in [sections 7 through 13]. The
 11 department shall use the average levy for this computation
 12 and shall notify the railroad car companies of the amount of
 13 the taxes owed. The taxes for 1992 are due and payable under
 14 ~~the provisions of {section 10}~~ WITHIN 30 DAYS AFTER THE TAX
 15 NOTICE IS POSTMARKED.

16 **Section 14.** Section 20-15-403, MCA, is amended to read:

17 "20-15-403. Applications of other school district
 18 provisions. (1) When the term "school district" appears in
 19 the following sections outside of Title 20, the term
 20 includes community college districts and the provisions of
 21 those sections applicable to school districts apply to
 22 community college districts: 2-9-101, 2-9-111, 2-9-316,
 23 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,
 24 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106,
 25 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204,

1 15-16-101, 15-16-601, ~~15-55-106~~, 15-70-301, 15-70-322,
 2 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201,
 3 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404,
 4 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,
 5 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
 6 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206,
 7 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304,
 8 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and
 9 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as
 10 amended.

11 (2) When the term "school district" appears in a
 12 section outside of Title 20 but the section is not listed in
 13 subsection (1), the school district provision does not apply
 14 to a community college district."

15 ~~NEW SECTION. Section 15. Appropriation. There is~~
 16 ~~appropriated \$70,000 from the general fund to the department~~
 17 ~~of revenue for fiscal year 1993 for the purpose of~~
 18 ~~administering {this act}.~~

19 NEW SECTION. Section 15. Repealer. Sections 15-55-101,
 20 15-55-102, 15-55-103, 15-55-104, 15-55-105, 15-55-106,
 21 15-55-108, 15-55-109, 15-55-110, and 15-55-111, MCA, are
 22 repealed.

23 NEW SECTION. Section 16. Codification instruction.
 24 [Sections 7 through 12] are intended to be codified as an
 25 integral part of Title 15, chapter 23, and the provisions of

1 Title 15, chapter 23, apply to [sections 7 through 12].

2 NEW SECTION. **Section 17.** Effective date -- retroactive
3 applicability. [This act] is effective on passage and
4 approval and applies retroactively, within the meaning of
5 1-2-109, to tax years beginning after December 31, 1990.

6 NEW SECTION. **Section 18.** Termination. [Section 13]
7 terminates January 1, 1994.

-End-

1 HOUSE BILL NO. 24

2 INTRODUCED BY COHEN

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION
6 OF RAILROAD CAR COMPANIES; TAXING RAILROAD CAR COMPANY
7 PROPERTY AS CLASS TWELVE PROPERTY; ~~APPROPRIATING MONEY FOR~~
8 ~~THE IMPLEMENTATION OF THE REVISED METHOD OF TAXATION;~~
9 PROVIDING FOR TRANSITION TO THE REVISED METHOD OF TAXATION
10 FOR TAX YEARS 1991 AND 1992; AMENDING SECTIONS 15-6-145,
11 15-23-101, 15-23-103, 15-23-104, 15-23-105, 15-23-201, AND
12 20-15-403, MCA; REPEALING SECTIONS 15-55-101, 15-55-102,
13 15-55-103, 15-55-104, 15-55-105, 15-55-106, 15-55-108,
14 15-55-109, 15-55-110, AND 15-55-111, MCA; AND PROVIDING AN
15 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
16 DATE."
17

18 STATEMENT OF INTENT

19 The intent of [this act] is to ensure that the taxation
20 of property belonging to railroad car companies is within
21 the requirements of the Railroad Revitalization and
22 Regulatory Reform Act of 1976. ~~To make the transition in~~
23 ~~changing the method of assessing the property for taxation~~
24 ~~additional funding will be required. For this reason, {this~~
25 ~~act} appropriates additional funds to the department of~~

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.

HOUSE BILL NO. 24

INTRODUCED BY COHEN

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF RAILROAD CAR COMPANIES; TAXING RAILROAD CAR COMPANY PROPERTY AS CLASS TWELVE PROPERTY; APPROPRIATING--MONEY--FOR THE--IMPLEMENTATION--OF--THE--REVISED--METHOD--OF--TAXATION; PROVIDING FOR TRANSITION TO THE REVISED METHOD OF TAXATION FOR TAX YEARS 1991 AND 1992; AMENDING SECTIONS 15-6-145, 15-23-101, 15-23-103, 15-23-104, 15-23-105, 15-23-201, AND 20-15-403, MCA; REPEALING SECTIONS 15-55-101, 15-55-102, 15-55-103, 15-55-104, 15-55-105, 15-55-106, 15-55-108, 15-55-109, 15-55-110, AND 15-55-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

The intent of [this act] is to ensure that the taxation of property belonging to railroad car companies is within the requirements of the Railroad Revitalization and Regulatory Reform Act of 1976. ~~To make the transition in changing the method of assessing the property for taxation, additional funding will be required. For this reason, [this act] appropriates additional funds to the department of~~

~~revenue for fiscal year 1993:~~

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

Section 1. Section 15-6-145, MCA, is amended to read:

"15-6-145. Class twelve property -- description -- taxable percentage. (1) Class twelve property includes all property of a railroad car company as defined in [section 7], all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%, whichever is less.

(3) R = A/B where:

(a) A is the total statewide taxable value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d); and

(b) B is the total statewide market value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d).

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall



1 conduct a sales assessment ratio study of all commercial and
 2 industrial real property and improvements. The study must be
 3 based on:

4 (i) assessments of such property as of January 1 of the
 5 year for which the study is being conducted; and

6 (ii) a statistically valid sample of sales using data
 7 from realty transfer certificates filed during the same
 8 taxable year or from the immediately preceding taxable year,
 9 but only if a sufficient number of certificates is
 10 unavailable from the current taxable year to provide a
 11 statistically valid sample.

12 (b) The department shall determine the value-weighted
 13 mean sales assessment ratio "M" for all such property and
 14 reduce the taxable value of property described in subsection
 15 (4) only, by multiplying the total statewide taxable value
 16 property described in subsection (4)(a) by "M" prior to
 17 calculating "A" in subsection (3)(a).

18 (c) The adjustment referred to in subsection (4)(b)
 19 will be made beginning January 1, 1986, and in each
 20 subsequent tax year to equalize the railroad taxable values.

21 (5) For the purpose of complying with the Railroad
 22 Revitalization and Regulatory Reform Act of 1976, as it read
 23 on January 1, 1986, the rate "R" referred to in this section
 24 is the equalized average tax rate generally applicable to
 25 commercial and industrial property, except class twelve

1 property, as commercial property is defined in
 2 15-1-101(1)(d)."

3 **Section 2.** Section 15-23-101, MCA, is amended to read:

4 "15-23-101. Properties centrally assessed. The
 5 department of revenue shall centrally assess each year:

6 (1) the franchise, roadway, roadbeds, rails, rolling
 7 stock, and all other operating property of railroads and
 8 railroad car companies operating in more than one county in
 9 the state or more than one state;

10 (2) property owned by a corporation or other person
 11 operating a single and continuous property operated in more
 12 than one county or more than one state, including telegraph,
 13 telephone, microwave, electric power or transmission lines;
 14 natural gas or oil pipelines; canals, ditches, flumes, or
 15 like properties and including, 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, property constructed, owned, or operated
 19 by a public agency created by the congress to transmit or
 20 distribute electric energy produced at privately owned
 21 generating facilities (not including rural electric
 22 cooperatives);

23 (3) all property of scheduled airlines;

24 (4) the net proceeds of mines and of oil and gas wells;

25 (5) the gross proceeds of coal mines; and

1 (6) property described in subsections (1) and (2) which
 2 is subject to the provisions of Title 15, chapter 24, part
 3 12."

4 **Section 3.** Section 15-23-103, MCA, is amended to read:

5 "15-23-103. Due date of reports and returns --
 6 extensions. (1) Except as provided in subsection (2) and
 7 15-23-602, each report or return described in 15-23-301,
 8 15-23-402, 15-23-502, or 15-23-701 shall be delivered to the
 9 department on or before March 31 each year.

10 (2) Each report or return for a natural gas or oil
 11 pipeline described in 15-23-301 must be delivered to the
 12 department on or before April 15 each year.

13 (3) Each report described in 15-23-201, 15-23-515, or
 14 15-23-516, or [section 8] must be delivered to the
 15 department before April 15 each year.

16 (4) The department may for good cause extend the time
 17 for filing a return or report for not more than 30 days."

18 **Section 4.** Section 15-23-104, MCA, is amended to read:

19 "15-23-104. Failure to file -- estimate by department
 20 -- penalty. (1) If any person fails to file a report or
 21 return within the time established in 15-23-103 or by such
 22 later date as the department may approve, the department
 23 shall estimate the value of the property to have been
 24 reported on the basis of the best available information. In
 25 estimating the value of the net proceeds of mines, the

1 department shall proceed under 15-23-506, and in estimating
 2 the value of the gross proceeds of coal mines, the
 3 department shall proceed under 15-35-107. In estimating the
 4 value of all other property subject to assessment under
 5 parts 2 through 4 of this chapter, the department shall
 6 proceed under 15-1-303. In estimating value under this
 7 section, the department may subpoena a person or his agent
 8 as specified in 15-1-302. An assessment pursuant to parts 5
 9 through 8 of this chapter based on estimated value or
 10 imputed value is subject to review under 15-1-211. Each
 11 month or part of a month a report is delinquent, the
 12 department shall impose and collect a \$25 penalty, the total
 13 not to exceed \$200, and shall deposit such penalty to the
 14 credit of the general fund. The department will also inform
 15 its agents in the counties of the delinquency, and, except
 16 as provided in [subsection (2)], the agents shall assess a
 17 penalty of 1% of the tax due for each month or part of a
 18 month the report is delinquent.

19 (2) For a delinquency in reporting under [section 8],
 20 the department shall assess a penalty of 1% of the tax due
 21 for each month or part of a month that the report is
 22 delinquent."

23 **Section 5.** Section 15-23-105, MCA, is amended to read:

24 "15-23-105. Apportionment among counties. The
 25 department shall apportion the value of property assessed

1 under 15-23-101, 15-23-202, or 15-23-403, other than
 2 railroad car company property, among the counties in which
 3 such property is located. Apportionment shall be on a
 4 mileage basis or on the basis of the original installed cost
 5 of the centrally assessed property located in the respective
 6 counties. If the property is of such a character that its
 7 value cannot reasonably be apportioned on the basis of
 8 mileage or on the basis of the original installed cost of
 9 the centrally assessed property located in the respective
 10 counties, the department may adopt such other method or
 11 basis of apportionment as may be just or proper."

12 **Section 6.** Section 15-23-201, MCA, is amended to read:

13 "15-23-201. **Assessment of railroads.** The president,
 14 secretary, or managing agent or such other officer as the
 15 department of revenue may designate of any corporation and
 16 each person or association of persons owning or operating
 17 any railroad in more than one county in this state or more
 18 than one state must on or before April 15 each year furnish
 19 the department a statement signed and sworn to by one of
 20 such officers or by the person or one of the persons forming
 21 such association, showing in detail for the year ending
 22 December 31 immediately preceding:

23 (1) the whole number of miles of railroad in the state
 24 and, where the line is partly out of the state, the whole
 25 number of miles without the state and the whole number

1 within the state, owned or operated by such corporation,
 2 person, or association;

3 (2) the value of the roadway, roadbed, and rails of the
 4 whole railroad and the value of the same within the state;

5 (3) the width of the right-of-way;

6 (4) the number of each kind of all rolling stock used
 7 by such corporation, person, or association in operating the
 8 entire railroad, including the part without the state;

9 (5) the number, kind, and value of rolling stock owned
 10 and operated in the state;

11 (6) the number, kind, and value of rolling stock used
 12 in the state but not owned by the party making the returns;

13 (7) the number, kind, and value of rolling stock owned
 14 but used out of the state, either upon divisions of road
 15 operated by the party making the returns or by and upon
 16 other railroads;

17 (8) the whole number of sidetracks in each county,
 18 including the number of miles of track in each railroad yard
 19 in the state;

20 (9) the number of each kind of rolling stock used in
 21 operating the entire railroad, including the part without
 22 the state, which must include a detailed statement of the
 23 number and value thereof of all engines; passenger, mail,
 24 express, baggage, freight, and other cars; or property owned
 25 or leased by such corporation, person, or association;

1 (10) the number of sleeping and dining cars not owned by
2 such corporation, person, or association but used in
3 operating the railroads of such corporation, person, or
4 association in the state or on the line of the road without
5 the state during each month of the year for which the return
6 is made; also the number of miles each month the cars have
7 been run or operated within and without the state;

8 (11) a description of the road, giving the points of
9 entrance into and the points of exit from each county, with
10 a statement of the number of miles in each county. When a
11 description of the road has once been given, no other annual
12 description thereof is necessary unless the road has been
13 changed. Whenever the road or any portion of the road is
14 advertised to be sold or is sold for taxes, either state or
15 county, no other description is necessary than that given
16 by, and the same is conclusive upon, the person,
17 corporation, or association giving the description. No
18 assessment is invalid on account of a misdescription of the
19 railroad or the right-of-way for the same. If such statement
20 is not furnished as above provided, the assessment made by
21 the department upon the property of the corporation, person,
22 or association failing to furnish the statement is
23 conclusive and final.

24 (12) the gross earnings of the entire road;

25 (13) the gross earnings of the road within the state

1 and, if the railroad is let to other operators, how much was
2 derived by the lessor as rental;

3 (14) the cost of operating the entire road, exclusive of
4 sinking fund, expenses of land department, and money paid to
5 the United States;

6 (15) net income for such year and amount of dividend
7 declared;

8 (16) capital stock authorized;

9 (17) capital stock paid in;

10 (18) funded debt;

11 (19) number of shares authorized;

12 (20) number of shares of stock issued;

13 (21) number, kind, and total number of miles traveled
14 within the state by railroad cars owned by railroad car
15 companies; and

16 ~~(21)~~(22) any other facts the department may require."

17 **NEW SECTION. Section 7. Definitions.** As used in
18 [sections 7 through 13], unless the context requires
19 otherwise, the following definitions apply:

20 (1) "Average levy" means the rate of taxation
21 determined under 15-24-103.

22 (2) "Person" includes an individual, firm, association,
23 company, partnership, corporation, joint-stock company,
24 agency, syndicate, or cooperative.

25 (3) "Private railroad cars" means all railroad cars

1 that:

2 (a) are not owned by a railroad company operating in
3 this state;

4 (b) are used for transporting persons or freight; and

5 (c) are not otherwise taxed ASSESSED FOR PROPERTY
6 TAXATION in this state.

7 (4) "Railroad car company" means any person, other than
8 a railroad company, engaged in operating, leasing, or
9 furnishing private railroad cars, whether or not owned by
10 that person, for the transportation of persons or freight
11 over railroad lines located wholly or partially within this
12 state.

13 NEW SECTION. Section 8. Annual report. Each railroad
14 car company shall, annually and within the time requirements
15 of 15-23-103(3) and (4), file with the department of revenue
16 a report, signed and sworn to by one of its designated
17 officers, that provides the following information as of the
18 preceding December 31:

19 (1) the name and nature of the business of the company;

20 (2) the number, kind, acquisition cost, date of
21 acquisition, and name of owner of its private railroad cars
22 ~~used-outside-of-the-state;~~

23 (3) the cost of additions and betterment, special
24 equipment, racks, protective equipment, or any other
25 modification or improvement to a car since acquisition;

1 (4) the total car miles traveled, loaded and unloaded,
2 within the state during the calendar year preceding the date
3 of filing;

4 (5) the total car miles traveled, loaded and unloaded,
5 within and outside of the state during the calendar year
6 preceding the date of filing;

7 (6) the average number of miles traveled by each class
8 of car during the year;

9 (7) the description and location of real and personal
10 property that is owned by the railroad car company and that
11 is subject to taxation within this state; and

12 (8) any other facts the department may require.

13 NEW SECTION. Section 9. Assessment -- allocation --
14 taxable value. (1) The department of revenue shall assess
15 the property in the name of the railroad car company owning
16 the property unless the property is reported by another
17 person leasing or operating the property.

18 (2) The allocation of property to this state must be
19 made on the basis of the car miles traveled within the state
20 to the total car miles traveled unless the department
21 ~~determines-that~~ BY ADMINISTRATIVE RULE ADOPTS a different
22 formula ~~should-be-applied.~~

23 (3) In determining taxable value, the department shall
24 use the percentage rate "R", as provided in 15-6-145, to
25 achieve compliance with the requirements of the federal

1 Railroad Revitalization and Regulatory Reform Act of 1976,
2 as amended.

3 NEW SECTION. Section 10. Determination of tax --
4 payment. (1) On or before the third Monday in October, the
5 department of revenue shall compute the tax on railroad car
6 company property by multiplying the taxable value of the
7 property by the average levy.

8 (2) After determining the tax, the department shall
9 send to the last-known address of each railroad car company
10 subject to taxation a written notice, postage prepaid,
11 showing the amount of taxes due for the current year and any
12 delinquent amount for prior years. The notice must include
13 the taxable value of the property and the average levy used
14 to compute the tax.

15 (3) The tax is due and payable to the department under
16 provisions of 15-16-102 ~~that--pertain--to--time--for~~
17 ~~payment,-penalty,-and-interest-for-delinquent-taxes.~~ A tax
18 not received by the department within the time requirements
19 of 15-16-102 is delinquent AND SUBJECT TO PENALTY AND
20 INTEREST UNDER THAT SECTION.

21 NEW SECTION. Section 11. Deposit of taxes. All taxes,
22 penalties, and interest collected by the department of
23 revenue under [sections 7 through 13] must be deposited in
24 the general fund.

25 NEW SECTION. Section 12. Lien -- collection actions.

1 (1) A tax due under [sections 7 through 13] is a lien on all
2 real and personal property of the railroad car company to
3 the same extent as are other taxes under 15-16-401 and
4 15-16-402.

5 (2) The department may at any time after the taxes are
6 delinquent use the following collection actions:

7 (a) seizure and sale of personal property, as provided
8 in 15-17-911, with the department having the same authority
9 as the county treasurer;

10 (b) suit for collection in district court; or

11 (c) issuance of a warrant for distraint, as provided in
12 Title 15, chapter 1, part 7.

13 (3) The use of one collection method does not prevent
14 the department from using other collection methods.

15 NEW SECTION. Section 13. Transition. (1) On or before
16 October ~~30~~ 31, 1992, each railroad car company shall submit
17 to the department of revenue the information needed to make
18 an assessment and to compute the tax for tax year 1991. The
19 department shall use the average levy for this computation
20 and shall notify the railroad car companies of the amount of
21 the taxes due. Taxes are due and payable ~~as--provided--in~~
22 ~~{section--10}~~ WITHIN 30 DAYS AFTER THE TAX NOTICE IS
23 POSTMARKED.

24 (2) Any freight line company license taxes paid by or
25 on behalf of a railroad car company in 1992 for taxes owed

1 under the provisions of Title 15, chapter 55, for tax year
 2 1991 must be credited against the tax owed by the company
 3 under [sections 7 through 13]. If the tax paid under Title
 4 15, chapter 55, exceeds the amount of tax owed under
 5 [sections 7 through 13], the state treasurer shall refund
 6 the difference without interest.

7 (3) On or before October 31, 1992, each railroad car
 8 company shall submit to the department the information
 9 needed to make the assessment and to compute the tax for tax
 10 year 1992, as provided for in [sections 7 through 13]. The
 11 department shall use the average levy for this computation
 12 and shall notify the railroad car companies of the amount of
 13 the taxes owed. The taxes for 1992 are due and payable under
 14 ~~the provisions of {section 18}~~ WITHIN 30 DAYS AFTER THE TAX
 15 NOTICE IS POSTMARKED.

16 **Section 14.** Section 20-15-403, MCA, is amended to read:

17 "20-15-403. Applications of other school district
 18 provisions. (1) When the term "school district" appears in
 19 the following sections outside of Title 20, the term
 20 includes community college districts and the provisions of
 21 those sections applicable to school districts apply to
 22 community college districts: 2-9-101, 2-9-111, 2-9-316,
 23 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,
 24 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106,
 25 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204,

1 15-16-101, 15-16-601, ~~15-55-106~~, 15-70-301, 15-70-322,
 2 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201,
 3 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404,
 4 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,
 5 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
 6 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206,
 7 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304,
 8 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and
 9 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as
 10 amended.

11 (2) When the term "school district" appears in a
 12 section outside of Title 20 but the section is not listed in
 13 subsection (1), the school district provision does not apply
 14 to a community college district."

15 ~~NEW SECTION. Section 15. Appropriation. There is~~
 16 ~~appropriated \$78,000 from the general fund to the department~~
 17 ~~of revenue for fiscal year 1993 for the purpose of~~
 18 ~~administering {this act}.~~

19 NEW SECTION. Section 15. Repealer. Sections 15-55-101,
 20 15-55-102, 15-55-103, 15-55-104, 15-55-105, 15-55-106,
 21 15-55-108, 15-55-109, 15-55-110, and 15-55-111, MCA, are
 22 repealed.

23 NEW SECTION. Section 16. Codification instruction.
 24 [Sections 7 through 12] are intended to be codified as an
 25 integral part of Title 15, chapter 23, and the provisions of

1 Title 15, chapter 23, apply to [sections 7 through 12].

2 NEW SECTION. **Section 17.** Effective date -- retroactive
3 applicability. [This act] is effective on passage and
4 approval and applies retroactively, within the meaning of
5 1-2-109, to tax years beginning after December 31, 1990.

6 NEW SECTION. **Section 18.** Termination. [Section 13]
7 terminates January 1, 1994.

-End-