

HOUSE BILL 325

Introduced by Menahan, et al.

1/23	Introduced
1/23	Referred to Taxation
1/23	Fiscal Note Requested
1/23	First Reading
1/28	Fiscal Note Received
1/30	Fiscal Note Printed
2/05	Hearing
2/12	Tabled in Committee

1 *House* BILL NO. *325*
 2 INTRODUCED BY *Morgan Whalen*
 3 *Bea Mc Carthy* *Barbara Kados*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED
 5 PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC
 6 POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR
 7 A METHOD OF APPRAISING POLLUTED PROPERTY; PROVIDING THAT
 8 UNPAID TAXES ON CLASS THIRTEEN PROPERTY ARE A LIEN ON ALL
 9 OTHER PROPERTY OWNED BY THE OWNER OF THE CLASS THIRTEEN
 10 PROPERTY; AMENDING SECTIONS 15-1-101, 15-7-103, 15-8-111,
 11 AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY DATE."
 12

13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because
 15 [section 3] requires the department of revenue to adopt
 16 rules for the appraisal of polluted property. At a minimum,
 17 the legislature intends that the rules should include but
 18 not be limited to procedures for determining:

19 (1) which parcels of land and which improvements are
 20 environmentally unsound or nonproductive as a result of
 21 mining, smelting, refining, or other human activity;

22 (2) the value of the property, recognizing the state's
 23 policy that polluted property should be valued as if it were
 24 environmentally sound and productive; and

25 (3) the point at which property previously meeting the

1 definition of polluted property is no longer polluted.

2 In determining a general and uniform procedure for
 3 determining which property is polluted, the department of
 4 revenue may use the expertise of or definitions used by a
 5 department or agency of the state of Montana or the United
 6 States.
 7

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

9 NEW SECTION. **Section 1.** Class thirteen property --
 10 description -- taxable percentage. (1) Class thirteen
 11 property includes all property defined as "polluted
 12 property" under 15-1-101.

13 (2) Class thirteen property is taxed at 8% of market
 14 value.

15 NEW SECTION. **Section 2.** Policy. It is the policy of
 16 the state of Montana that an incentive should be provided to
 17 the owners of polluted property that has been rendered
 18 environmentally unsound or nonproductive because of
 19 pollution from mining, smelting, refining, or other human
 20 activity to make the property environmentally sound and
 21 productive. To carry out this policy, the state of Montana
 22 finds that polluted property that is not subject to a
 23 federal or state order requiring response action should be
 24 valued as if it were productive and environmentally sound
 25 but taxed at a rate higher than other property. The

incentive provided through this policy is for the owners of polluted property to return the land or improvements to an environmentally sound and productive state, thereby causing the polluted property to be taxed at a lower rate.

NEW SECTION. Section 3. Valuation -- minimum -- rulemaking. (1) The value of polluted property may not be less than the average market value of all other commercial and industrial property in the county and may not be less than \$100 per acre. For polluted land, value may be determined by square footage, acreage, or similar measure. For polluted improvements, value must be determined by replacement cost without adjustment for depreciation of any kind.

(2) The department of revenue shall promulgate rules to ensure that polluted property is appraised and assessed as if it were environmentally sound and productive.

Section 4. Section 15-1-101, MCA, is amended to read:

"15-1-101. (Temporary) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural

crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

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

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

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

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

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

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

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

(F) all property described in 15-6-136.

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

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

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

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

only on such leasehold improvements.

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

(j) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

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

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

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(o) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(p) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(q) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a

county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board.

"15-1-101. (Effective July 1, 1993) Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

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

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe

property, means any property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

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

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

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

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

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

(F) all property described in 15-6-136.

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

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

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected

upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

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

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

(j) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

(k) The term "personal property" includes everything

that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

(1) The term "polluted property" means land or improvements that:

(i) have been rendered environmentally unsound or nonproductive because of the effects of mining, smelting, refining, or other human activity and includes postreclamation property that remains environmentally unsound or is subject to environmental land use controls;

(ii) are listed as a national priority list site as defined in the federal Comprehensive, Environmental Response, Compensation, and Liability Act of 1980, as amended; and

(iii) are not subject to a federal or state court order or administrative order or consent decree requiring response action.

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

(n) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition ~~must~~ may not be construed to authorize the taxation of the stocks of any company or corporation when

the property of ~~such~~ the company or corporation represented by the stocks is within the state and has been taxed.

(o) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(p) "Research The term "research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(q) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" ~~shall be deemed to include~~

means a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification ~~shall--mean~~ means the state tax appeal board."

Section 5. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) ~~it-is-the-duty-of-the~~ The department of revenue ~~to shall~~ implement the provisions of 15-7-101 through 15-7-103 by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of ~~said~~ the lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands;

(e) for a general and uniform method of appraising polluted property.

(2) All lands ~~shall~~ must be classified according to their use or uses and graded within each class according to soil and productive capacity. In ~~such~~ the classification work, the department shall use ~~shall-be-made-of~~ soil surveys and maps and all other pertinent available information.

(3) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(4) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111 after January 1, 1986, all property classified in 15-6-134 must be appraised on its market value in the same year. The department shall publish a rule specifying the year used in the appraisal.

(6) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. ~~In-no-event may-the-sewage Sewage~~ disposal or domestic water supply systems may not be ~~included~~ taxed twice by including them in

1 the valuation and assessing them separately."

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

3 "15-8-111. **Assessment -- market value standard --**
4 **exceptions.** (1) All taxable property must be assessed at
5 100% of its market value except as otherwise provided.

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

10 (b) If the department uses construction cost as one
11 approximation of market value, the department shall fully
12 consider reduction in value caused by depreciation, whether
13 through physical depreciation, functional obsolescence, or
14 economic obsolescence.

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

24 (3) The department of revenue or its agents may not
25 adopt a lower or different standard of value from market

1 value in making the official assessment and appraisal of the
2 value of property, except:

3 (a) the wholesale value for agricultural implements and
4 machinery is the loan value as shown in the Official Guide,
5 Tractor and Farm Equipment, published by the national farm
6 and power equipment dealers association, St. Louis,
7 Missouri;

8 (b) for agricultural implements and machinery not
9 listed in the official guide, the department shall prepare a
10 supplemental manual where the values reflect the same
11 depreciation as those found in the official guide; and

12 (c) as otherwise authorized in Title 15 and Title 61.

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

15 (5) The taxable value for all property is the
16 percentage of market or assessed value established for each
17 class of property.

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

20 (a) Properties in 15-6-131, under class one, are
21 assessed at 100% of the annual net proceeds after deducting
22 the expenses specified and allowed by 15-23-503 or, if
23 applicable, as provided in 15-23-515 or 15-23-516.

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

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

(d) Beginning January 1, 1990, and ending December 31, 1993, properties in 15-6-143, under class ten, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.

(e) Beginning January 1, 1994, properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(7) Properties in [section 1] are assessed at 100% of average market value as provided in [section 3].

~~(7)~~ (8) Land and the improvements thereon are separately assessed when any of the following conditions occur:

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

(b) the taxpayer makes a written request; or

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

(Subsection (6)(d) terminates January 1, 1994--sec. 19, Ch. 783, L. 1991.)"

Section 7. Section 15-16-403, MCA, is amended to read:

"15-16-403. Lien on real property and improvements. (1)

Every tax due upon real property is a lien against the property assessed, and every tax due upon improvements upon real estate assessed to other than the owner of the real estate is a lien upon the land and improvements, which ~~several~~ These liens attach as of January 1 in each year.

(2) A tax due on class thirteen property is a lien against all real and personal property owned by the owner of the class thirteen property as well as a lien upon the property upon which the taxes are due."

NEW SECTION. Section 8. Codification instruction. (1)

[Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 15, chapter 7, and the provisions of Title 15, chapter 7, apply to [sections 2 and 3].

NEW SECTION. Section 9. Applicability. [This act]

applies to taxable years beginning after December 31, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0325, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act defining polluted property for the purposes of taxation; establishing a public policy for the taxation of polluted property; providing for a method of appraising polluted property; providing that unpaid taxes on class thirteen property are a lien on all other property owned by the owner of the class thirteen property; and providing an applicability date.

FISCAL IMPACT:

Expenditures:

The Department of Revenue anticipates enough work for an additional appraiser. The addition of a new property class would require some data entry and programming changes to the county and state computer systems. The bill is effective beginning tax year 1995.

Property Valuation

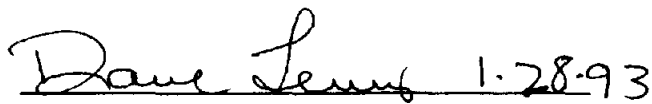
	<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	398.66	399.66	1.00
Personal Services	\$ 11,885,655	\$ 11,909,950	\$ 24,295
Operating Expenses	2,180,406	2,183,098	2,692
Equipment	222,278	225,098	2,820
Debt Service	<u>269,800</u>	<u>269,800</u>	<u>0</u>
Total	\$ 14,558,139	\$ 14,587,946	\$ 29,807
General Fund	\$ 14,558,139	\$ 14,587,946	\$ 29,807

Revenues:

The Department of Revenue anticipates an increase in local and state property tax revenues beginning in FY96 due to this bill. The department, however, has no information regarding the current taxable valuation of land that would be subject to the provisions of this bill in order to provide an accurate estimate of the extent of the revenue increase.

TECHNICAL NOTES:

Currently, the department has no expertise with environmental considerations of this type. There is potential litigation due to the determination of polluted and productive property. There could be whole towns in a superfund site. This would mean that all the property in town would be in the new class at the higher tax rate.


DAVID LEWIS, BUDGET DIRECTOR DATE 1.28.93
Office of Budget and Program Planning

WILLIAM T. "RED" MENAHAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0325, as introduced

NB 325