

HOUSE BILL 78

Introduced by Toole, et al.

12/08	Fiscal Note Introduced
12/09	Introduced
12/09	Referred to Taxation
12/09	First Reading
12/11	Fiscal Note Received
12/13	Fiscal Note Printed
12/13	Hearing
	Died in Committee

1 *House* BILL NO. *78*  
2 INTRODUCED BY *Tool* *Mr. Lynn* *Skir*  
3 *Larsen*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROPERTY  
5 TAX DEFERRAL PROGRAM TO REDUCE THE IMPACT OF HIGHER PROPERTY  
6 TAXES BECAUSE OF REAPPRAISAL; ESTABLISHING THE AMOUNT OF  
7 TAX-DEFERRED PROPERTY ELIGIBLE FOR THE PROPERTY TAX DEFERRAL  
8 PROGRAM; PROVIDING STATE REIMBURSEMENT TO COUNTIES FOR  
9 PROPERTY TAXES DEFERRED UNDER THE PROPERTY TAX DEFERRAL  
10 PROGRAM; DIRECTING THE BOARD OF INVESTMENTS TO LOAN \$5  
11 MILLION FOR MAKING INITIAL PAYMENTS FOR THE PROPERTY TAX  
12 DEFERRAL PROGRAM; GRANTING RULEMAKING AUTHORITY TO THE  
13 DEPARTMENT OF REVENUE; AND PROVIDING AN IMMEDIATE EFFECTIVE  
14 DATE AND AN APPLICABILITY DATE."

15  
16 STATEMENT OF INTENT

17 A statement of intent is required for this bill because  
18 [section 20] delegates rulemaking authority to the  
19 department of revenue. It is the intent of the legislature  
20 that the rules adopted by the department prescribe the forms  
21 and procedures to be used by eligible applicants and by  
22 counties seeking reimbursement. The forms and applications  
23 should be as easy to use as possible, while maintaining the  
24 integrity of the program.  
25

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

2 NEW SECTION. **Section 1.** Definitions. As used in  
3 [sections 1 through 20], the following definitions apply:

4 (1) "Department" means the department of revenue  
5 provided for in 2-15-1301.

6 (2) "Homestead" means the owner-occupied, principal  
7 dwelling owned by the taxpayer and the land, not exceeding 1  
8 acre, on which it is located, regardless of whether the land  
9 on which it is situated is owned by the taxpayer. If the  
10 homestead is located in a multiunit building, the homestead  
11 is the portion of the building actually used as the  
12 principal dwelling and its percentage of the value of the  
13 common elements and of the value of the land on which it is  
14 built. The percentage attributable to the unit is the value  
15 of the unit consisting of the homestead compared to the  
16 total value of the building exclusive of the common  
17 elements, if any. The value of the land and common elements  
18 must be divided equally among the units.

19 (3) "Household" means an association of persons who  
20 live in the same dwelling, sharing its furnishings,  
21 facilities, accommodations, and expenses. The term does not  
22 include bona fide lessees, tenants, or roomers and boarders  
23 on contract.

24 (4) "Household income" means federal adjusted gross  
25 income of the household, without regard to loss, as that

1 quantity is defined in the Internal Revenue Code, plus all  
2 nontaxable income, including but not limited to:

3 (a) the gross amount of any pension or annuity  
4 (including Railroad Retirement Act benefits and veterans'  
5 disability benefits);

6 (b) the amount of capital gains excluded from adjusted  
7 gross income;

8 (c) alimony;

9 (d) support money;

10 (e) nontaxable strike benefits;

11 (f) cash public assistance and relief;

12 (g) payments and interest on federal, state, county,  
13 and municipal bonds; and

14 (h) all payments received under federal social security  
15 except social security income paid directly to a nursing  
16 home.

17 (5) "Tax-deferred property" means the property for  
18 which taxes are deferred under [sections 1 through 20].

19 (6) "Taxes" or "property taxes" means ad valorem taxes  
20 and other assessments, fees, and charges, except an  
21 assessment for a special improvement district or a rural  
22 special improvement district, that constitute a lien against  
23 the tax-deferred property and that are required to be paid  
24 to the county treasurer.

25 (7) "Taxpayer" means an individual who has filed a

1 claim for deferral or individuals who have jointly filed a  
2 claim for deferral under [section 2].

3 NEW SECTION. **Section 2.** Claim for deferral of tax on  
4 homestead -- eligibility -- effect. (1) Subject to [section  
5 3], a taxpayer may elect to defer the property taxes on a  
6 homestead by filing a claim for deferral with the county  
7 assessor between January 1 and April 15 of the first year in  
8 which deferral is claimed.

9 (2) If a guardian or conservator has been appointed for  
10 a taxpayer otherwise qualified to obtain deferral of taxes  
11 under [sections 1 through 20], the guardian or conservator  
12 may act for the taxpayer in complying with the provisions of  
13 [sections 1 through 20].

14 (3) If a trustee of an inter vivos trust that was  
15 created by and is revocable by a taxpayer who is both the  
16 trustor and a beneficiary of the trust and who is otherwise  
17 qualified to obtain a deferral of taxes under [sections 1  
18 through 20] owns the fee simple estate under a recorded  
19 instrument of sale, the trustee may act for the taxpayer in  
20 complying with the provisions of [sections 1 through 20].

21 (4) If the taxpayer elects to defer property taxes for  
22 a year, filing a claim for deferral under subsection (1) has  
23 the effect of:

24 (a) deferring the payment of the property taxes levied  
25 on the homestead for the tax year beginning in the calendar

1 year in which the claim is filed;

2 (b) continuing the deferral of the payment by the  
3 taxpayer of property taxes that are deferred under [sections  
4 1 through 20] for previous years and that have not become  
5 delinquent under [section 11]; and

6 (c) continuing the deferral of the payment by the  
7 taxpayer of future property taxes for as long as the  
8 provisions of [section 3] are met.

9 (5) This section may not be construed to require the  
10 spouse of an individual to file a claim jointly with the  
11 individual, even though the spouse may be eligible to claim  
12 the deferral jointly with the individual.

13 (6) The county assessor shall forward each claim filed  
14 under subsection (1) to the department. The department shall  
15 determine if the property is eligible for deferral.

16 **NEW SECTION. Section 3. Determination of property tax**  
17 **deferral -- property eligible for deferral -- limits. (1)**  
18 **Subject to the conditions of subsections (2) through (8),**  
19 **the amount of tax-deferred property eligible for property**  
20 **tax deferral under [sections 1 through 20] is determined by**  
21 **the formula  $D = A - MV(I)$  where:**

22 (a) D is the tentative value of tax-deferred property;

23 (b) A is the appraised value of the owner-occupied  
24 residence in effect January 1, 1992;

25 (c) MV is the appraised value of the owner-occupied

1 residence in effect January 1, 1993; and

2 (d) I is the inflation factor determined by dividing  
3 the consumer price index, as defined in 15-30-101, for June  
4 1992 by the consumer price index for June 1993.

5 (2) If the tentative value of tax-deferred property  
6 determined in subsection (1) is equal to or less than zero,  
7 then a deferral is not allowed under [sections 1 through  
8 20].

9 (3) The tax-deferred property to which the taxpayer is  
10 entitled to receive a property tax deferral is the amount  
11 calculated in subsection (1) multiplied by a percentage  
12 figure based on household income and determined from the  
13 following table:

Household Income	Percentage Multiplier
14 \$0 - \$25,000	100%
15 25,001 - 40,000	75%
16 40,001 and above	50%

17 (4) For the purposes of this section, the appraised  
18 value in effect on January 1, 1993, is the appraised value  
19 of the owner-occupied residence because of reappraisal,  
20 exclusive of changes in valuation as a result of expansion,  
21 addition, replacement, or remodeling of the residential  
22 improvement.

23 (5) The tentative value of tax-deferred property is  
24 calculated without regard to increases in valuation because  
25

1 of construction, expansion, addition, replacement, or  
2 remodeling of a residential improvement.

3 (6) To qualify for tax deferral under [sections 1  
4 through 20], the property must meet all of the following  
5 requirements when the claim is filed and must continue to  
6 meet the requirements as long as the payment of taxes by the  
7 taxpayer is deferred:

8 (a) The property must be the homestead of the taxpayer  
9 who files the claim for deferral, except for a taxpayer  
10 required to be absent from the homestead by reason of  
11 health.

12 (b) The taxpayer claiming the deferral must,  
13 individually or together with the taxpayer's spouse, own the  
14 fee simple estate or be purchasing the fee simple estate  
15 under a recorded instrument of sale, or two or more persons  
16 must together own or be purchasing the fee simple estate,  
17 with rights of survivorship, under a recorded instrument of  
18 sale.

19 (c) There must be no prohibition to the deferral of  
20 property taxes contained in any provision of federal law,  
21 rule, or regulation applicable to a mortgage, trust deed,  
22 land sale contract, or conditional sale contract for which  
23 the homestead is security.

24 (7) The total combined amount of property taxes  
25 deferred under [sections 1 through 20] plus the outstanding

1 mortgage on the property, if any, for which the taxes are  
2 deferred may not exceed 90% of the appraised value of the  
3 property for which the taxes are deferred.

4 (8) Property tax may not be deferred under [sections 1  
5 through 20] for a homestead that is subject to a reverse  
6 annuity mortgage loan under Title 90, chapter 6, part 5.

7 **NEW SECTION. Section 4. Claim forms -- contents.** A  
8 claim for deferral under [section 2] must be in writing on a  
9 form supplied by the department and must:

10 (1) describe the homestead;

11 (2) list facts establishing the eligibility for the  
12 deferral under the provisions of [sections 1 through 20],  
13 including facts that establish the taxpayer's household  
14 income;

15 (3) have attached any documentary proof required by the  
16 department to show that the requirements of [section 3(6)  
17 through (8)] have been met; and

18 (4) be signed and dated by the claimant. The signature  
19 is considered an affidavit that the contents of the claim  
20 are true.

21 **NEW SECTION. Section 5. Deferral as lien --**  
22 **foreclosure.** (1) (a) The department, on behalf of the state  
23 of Montana, has a lien against the tax-deferred property for  
24 the payment of the deferred taxes plus interest and any fees  
25 paid to the county clerk and recorder by the department in

connection with the recording, release, or satisfaction of the lien.

(b) The lien for deferred taxes attaches to the property on July 1 of the year in which the taxes are assessed.

(c) The deferred property tax lien has the same priority as other real property tax liens, except that the lien of mortgages or trust deeds that is recorded prior to the attachment of the lien for deferred taxes is considered prior to the lien for deferred taxes.

(2) (a) The lien may be foreclosed by the department as if it were a purchase money security interest under Title 30, chapter 9. Reasonable attorney fees and costs may be granted to the department in a suit for foreclosure of the lien.

(b) If the receipts from a foreclosure, after allowing for satisfaction of a mortgage or trust deed recorded prior to the attachment of the lien for deferred taxes, are insufficient to satisfy the lien for deferred taxes, the receipts must be considered satisfaction of the lien for deferred taxes.

(3) Receipts from foreclosure proceedings must be credited in the same manner as other repayments of deferred property taxes under [section 19].

NEW SECTION. **Section 6.** Listing of tax-deferred

property -- interest accrual. (1) If eligibility for deferral of homestead property taxes is established as provided in [sections 1 through 20], the department shall notify the county assessor and the county assessor shall show on the current tax roll which property is tax-deferred property by an entry clearly designating the property as tax-deferred property.

(2) The county assessor shall send to the department, as soon as the taxes are extended upon the roll, the tax statement for each tax-deferred property.

(3) Interest accrues on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of 8% a year.

(4) For property taxes deferred after January 1, 1994, the state liens are as provided by [section 5(1)(a)] and recorded under [section 7].

NEW SECTION. **Section 7.** Recording liens in county -- recording to constitute notice of state lien. (1) In each county in which there is tax-deferred property, the department shall record in the mortgage records of the county a list of tax-deferred properties in that county. The list must contain a description of the property as entered on the assessment roll, together with the name of the owner.

(2) The recording of the tax-deferred properties under subsection (1) is notice that the department claims a lien

1 against those properties in the amount provided in [section  
2 5(1)(a)], even though the amount of taxes, interest, or fees  
3 is not listed.

4 (3) The department is not required to pay any filing,  
5 indexing, or recording fees to the county in connection with  
6 the recording, release, or satisfaction of liens against  
7 tax-deferred properties of that county in advance or at the  
8 time entry is made.

9 **NEW SECTION. Section 8.** County treasurer to receive  
10 amount equivalent to deferred taxes from state. (1) After  
11 determining the amount of deferred taxes on tax-deferred  
12 property in a county for the tax year, the department shall  
13 pay to the county treasurer an amount equal to the deferred  
14 taxes. Payment must be made from the account established in  
15 [section 19].

16 (2) The department shall maintain accounts for each  
17 deferred property, and the accounts accrue interest only on  
18 the actual amount of taxes advanced to the county.

19 **NEW SECTION. Section 9.** Notice to taxpayer. (1) On or  
20 before December 15 of each year, the department shall send a  
21 notice to each taxpayer who has claimed deferral of property  
22 taxes for the current tax year. The notice must:

23 (a) inform the taxpayer that the property taxes have  
24 been deferred in the current year;

25 (b) inform the taxpayer that a claim must be filed

1 annually;

2 (c) show the total amount of deferred taxes remaining  
3 unpaid since initial application for deferral and the  
4 interest accruing to November 15 of the current year;

5 (d) inform the taxpayer that voluntary payment of the  
6 deferred taxes may be made at any time to the department;  
7 and

8 (e) contain other information that the department  
9 considers necessary to facilitate administration of the  
10 property tax deferral program.

11 (2) The department shall mail the notice required under  
12 subsection (1) to the residence address of the taxpayer as  
13 shown in the claim for deferral or as otherwise determined  
14 by the department to be the correct address of the taxpayer.

15 **NEW SECTION. Section 10.** Events requiring payment of  
16 deferred tax and interest. All deferred property taxes,  
17 including accrued interest, become payable as provided in  
18 [section 11] when:

19 (1) the taxpayer or the survivor of the taxpayer dies;  
20 (2) the property for which property taxes were deferred  
21 is sold, a contract to sell is entered into, or some person  
22 other than the taxpayer who claimed the deferral becomes the  
23 owner of the property;

24 (3) the tax-deferred property is no longer the  
25 homestead of the taxpayer who claimed the deferral, except

1 in the case of a taxpayer required to be absent from the  
2 tax-deferred property by reason of health; or

3 (4) the tax-deferred property is moved out of the  
4 county or state.

5 NEW SECTION. **Section 11. Time for payment --**  
6 **delinquencies.** (1) When any of the circumstances listed in  
7 [section 10] occur:

8 (a) the deferral of taxes must continue for the  
9 assessment year in which the circumstance occurs; and

10 (b) the amount of deferred property taxes, including  
11 accrued interest, for all years is due and payable to the  
12 department on August 15 of the year following the calendar  
13 year in which the circumstance occurs, except as provided in  
14 [section 12], [section 16], and subsection (2) of this  
15 section.

16 (2) Notwithstanding the provisions of [section 16] and  
17 subsection (1)(b) of this section, when the circumstance  
18 listed in [section 10(4)] occurs, the amount of deferred  
19 taxes is due and payable 5 days before the date of removal  
20 of the property from the state.

21 (3) If the amounts due are not paid on the indicated  
22 due date as provided in this section or as extended under  
23 [section 16], the amounts are considered delinquent as of  
24 that date and the property is subject to foreclosure as  
25 provided in [section 5].

1 NEW SECTION. **Section 12. Election by spouse to**  
2 **continue tax deferral -- extension of time to file claim.**

3 (1) When any of the circumstances listed in [section 10(1)]  
4 through (3)] occur, a spouse who did not file a claim  
5 jointly with the taxpayer may continue the property in its  
6 deferred tax status by filing a claim within the time and in  
7 the manner provided under [section 2] if the property is the  
8 homestead of the spouse and meets the requirements of  
9 [section 3(2)].

10 (2) A spouse who is qualified to continue the property  
11 in its tax-deferred status under subsection (1) may continue  
12 the deferral of property taxes deferred for previous years  
13 by filing a claim within the time and in the manner provided  
14 under [section 2]. Payment of the taxes levied on the  
15 homestead and deferred under this subsection and payment of  
16 taxes levied on the homestead in the current assessment year  
17 and in future years may be deferred in the manner provided  
18 in and subject to the provisions of [sections 1 through 20].

19 (3) Notwithstanding that [section 2] requires a claim  
20 to be filed no later than April 15, if the department  
21 determines that good and sufficient cause exists for the  
22 failure of a spouse to file a claim under this section on or  
23 before April 15, the claim may be filed within 180 days  
24 after the taxes are due and payable under [section 11].

25 NEW SECTION. **Section 13. Payment of deferred taxes and**



1 interest. (1) All payments of deferred taxes must be made to  
2 the department.

3 (2) Subject to subsection (3), all or part of the  
4 deferred taxes and accrued interest may at any time be paid  
5 to the department by:

6 (a) the taxpayer; or

7 (b) any person having or claiming a legal or equitable  
8 interest in the property.

9 (3) A person referred to in subsection (2)(b) may make  
10 payments of deferred taxes and accrued interest only if no  
11 objection is made by the taxpayer within 30 days after the  
12 department mails a notice to the taxpayer that payment has  
13 been tendered.

14 (4) A payment made under this section must be applied  
15 first against accrued interest and any remainder against the  
16 deferred taxes. The payment does not affect the deferred tax  
17 status of the property. Unless otherwise provided by law,  
18 the payment does not give the person paying the taxes an  
19 interest in the property or a claim against the estate, in  
20 the absence of a valid agreement to the contrary.

21 (5) When the deferred taxes and accrued interest are  
22 paid in full and the property is no longer subject to tax  
23 deferral, the department shall prepare and record in the  
24 county in which the property is located a satisfaction of  
25 deferred property tax lien.

1 NEW SECTION. **Section 14. Taxes unpaid before deferral**  
2 **as lien -- effect on foreclosure -- exceptions.** (1)  
3 Notwithstanding the provisions of [section 17], upon  
4 compliance with [section 15], taxes not in excess of \$1,000  
5 assessed against a tax-deferred homestead for a tax year  
6 beginning on or after January 1, 1994, that were unpaid as  
7 of July 1 of the tax year for which the homestead property  
8 tax deferral was initially granted under [sections 1 through  
9 20] and that remain unpaid remain a lien and become  
10 delinquent as otherwise provided by law but are not subject  
11 to foreclosure until August 15 of the calendar year  
12 following the calendar year in which any of the  
13 circumstances listed in [section 10] occur.

14 (2) This section does not apply if:

15 (a) the tax-deferred homestead property is moved out of  
16 the county or state; or

17 (b) the tax-deferred homestead property is personal  
18 property.

19 (3) If the property to which subsection (1) applies has  
20 been included on a foreclosure list or if a decree of  
21 foreclosure has been entered and taxes in excess of \$1,000  
22 assessed against the property for the earliest year are  
23 paid, the property must be removed from the foreclosure list  
24 or the decree must be vacated unless the proceeding against  
25 the property involves delinquent taxes other than those

1 described in subsection (1).

2 (4) Upon removal of the property from the foreclosure  
3 list or vacation of the decree, a penalty may not be  
4 imposed. The penalty is abated or, if the penalty has been  
5 paid, upon application to the county assessor on or before  
6 July 1 of the year immediately following the year of  
7 vacation or removal, the penalty must be refunded out of the  
8 county general fund.

9 (5) Within 60 days after approval of an application  
10 under [section 15] with respect to any property to which  
11 this section applies, the county assessor shall make the  
12 proper entries on the tax roll and remove the property from  
13 the foreclosure list and proceeding.

14 (6) If a decree has been entered foreclosing liens for  
15 delinquent taxes against property that is the subject of an  
16 application filed under [section 15] and if the delinquent  
17 taxes include only those taxes described in subsection (1)  
18 of this section or if taxes in excess of those described in  
19 subsection (1) of this section are paid, the decree is void  
20 and the county treasurer shall make the proper entries on  
21 the tax rolls to reflect the vacation of the decree and to  
22 acknowledge the subsisting liens.

23 (7) Nothing in this section removes or releases  
24 property to which this section applies from the tax lien.  
25 The unpaid taxes remain valid and subsisting liens as though

1 the foreclosure proceeding had not been instituted or as  
2 though the foreclosure proceeding had not been instituted  
3 and a decree entered.

4 (8) This section does not affect a foreclosure  
5 proceeding instituted or a decree entered to foreclose liens  
6 for delinquent taxes against properties subject to  
7 foreclosure if the delinquent taxes include taxes other than  
8 those described under subsection (1). The foreclosure  
9 proceedings must be instituted or continued without regard  
10 to this section, and a foreclosure decree has full force.

11 (9) Interest on taxes to which this section applies  
12 must be determined from the same dates, in the same manner,  
13 and until paid as for other property taxes remaining unpaid  
14 upon the due dates in accordance with subsection (1) and  
15 upon entry and following a decree of foreclosure.

16 NEW SECTION. **Section 15.** Application to delay  
17 foreclosure -- effect of denial -- appeal. (1) The owner of  
18 tax-deferred homestead property desiring delay in  
19 foreclosure on account of delinquent taxes, as provided in  
20 [section 14], shall make application for the delay to the  
21 county assessor prior to the date the period of redemption  
22 expires. The application must contain or be accompanied by a  
23 verified statement of household income of the owner for the  
24 calendar year immediately preceding the calendar year in  
25 which the application is made.

(2) Upon receipt of an application under subsection (1), the county assessor shall approve or deny the application. If the application is denied, the owner may appeal to the county tax appeal board in the county in which the tax-deferred homestead property is located within 90 days after notice in writing of the denial is mailed to the owner by the county assessor. A decision of the county tax appeal board may be appealed to the district court within the time and in the manner provided under Title 15, chapter 2, part 3.

**NEW SECTION. Section 16. Extension of time for payment upon death of claimant or spouse.** (1) If the taxpayer who claimed a homestead property tax deferral dies or if a spouse who continued the deferral under [section 12] dies, the department may extend the time for payment of the deferred taxes and accrued interest with respect to the taxes becoming due and payable under [section 11] if:

(a) the homestead property becomes the property of an individual or individuals:

(i) by inheritance or devise; or  
(ii) the individual or individuals are heirs or devisees in the course of settlement of the estate;

(b) the individual or individuals commence occupancy of the property as a principal residence on or before August 15 of the calendar year following the calendar year of death;

and

(c) the individual or individuals make application to the department for an extension of time for payment of the deferred taxes and interest prior to August 15 of the calendar year following the calendar year of death.

(2) (a) Subject to subsection (2)(b), an extension granted under this section may be for a period not to exceed 6 years after August 15 of the calendar year of death. The terms and conditions under which the extension is granted must be in accordance with a written agreement entered into by the department and the individual or individuals.

(b) An extension granted under this section terminates immediately if:

(i) the homestead property is sold or otherwise transferred by any party to the extension agreement;

(ii) all of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

(iii) the homestead property is moved out of the county or state.

(3) If the department has reason to believe that the homestead property is not sufficient security for the deferred taxes and interest, the department may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms

of the extension. The bond may not exceed an amount double the taxes for which the tax extension is granted.

(4) During the period of extension and until paid, the deferred taxes continue to accrue interest in the same manner and at the same rate as provided under [section 6]. Interest does not accrue on interest.

**NEW SECTION. Section 17. Limitations.** [Sections 1 through 20] are not intended to and may not be construed to:

(1) prevent the collection, by foreclosure, of property taxes that become a lien against tax-deferred property; or

(2) affect any provision of a mortgage or other instrument relating to land and requiring a person to pay property taxes.

**NEW SECTION. Section 18. Deed or contract clauses preventing application for deferral prohibited.** After [the effective date of this act], it is unlawful for any mortgage, trust deed, or land sale contract to contain a clause or statement prohibiting the owner from applying for the benefits of the deferral of homestead property taxes provided in [sections 1 through 20]. A clause or statement in a mortgage, trust deed, or land sale contract executed after [the effective date of this act] in violation of this section is void.

**NEW SECTION. Section 19. Property tax deferral account.** (1) There is an account in the state special

revenue fund to be used by the department for the purpose of making payments of deferred property taxes to county treasurers.

(2) After paying back the loan from the pooled investment fund plus interest at 8% a year, all sums received by the department under [sections 1 through 20] as repayment of deferred property taxes must, upon receipt by the department, be credited to the account established in subsection (1) for the purpose of making payments of deferred property taxes to county treasurers.

**NEW SECTION. Section 20. Rulemaking authority.** The department may make rules necessary to effectively administer the provisions of [sections 1 through 20].

**NEW SECTION. Section 21. Loan from board of investments -- payback.** (1) The board of investments shall provide a loan from the noncoal tax portion of the pooled investment fund established in 17-6-203 to the account established in [section 19] up to \$5 million for the purpose of making payments of deferred property taxes to county treasurers.

(2) The department, pursuant to [section 19], shall deposit repayments of deferred property taxes to the pooled investment fund until the amount actually spent plus interest at 8% per year is repaid to the pooled investment fund.

1        NEW SECTION.   **Section 22.**   Codification       instruction.  
2        [Sections 1 through 20] are intended to be codified as an  
3        integral part of Title 15, chapter 16, and the provisions of  
4        Title 15 apply to [sections 1 through 20].

5        NEW SECTION.   **Section 23.**   Effective       date        --  
6        applicability. [This act] is effective on passage and  
7        approval and applies to tax years beginning on or after  
8        December 31, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0078, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a property tax deferral program to reduce the impact of higher property taxes because of reappraisal; establishing the amount of tax-deferred property eligible for the property tax deferral program; providing state reimbursement to counties for property taxes deferred under the property tax deferral program; directing the Board of Investments to loan \$5 million for making initial payments for the property tax deferral program; granting rulemaking authority to the Department of Revenue; and providing an immediate effective date and an applicability date.

DEPARTMENT OF REVENUE

FISCAL IMPACT:

Expenditures:

The proposal will impact Department of Revenue administrative costs. However, the impact is not known, and for reasons of expediency are not provided at this time.

Revenues:


Over the long run this proposal has minimal impact on revenues. This is because the program does not relieve property tax burdens, but simply defers them to a future payment date. Local governments are made whole through provisions in the bill that allow the Department to reimburse them for property taxes deferred immediately. This payment is provided through a loan from the Board of Investments at the rate of 8 percent. Property tax deferrals, when paid, also require the payment of interest at the rate of 8 percent. To the extent that the timing of payments to local governments from the Board of Housing loan precedes repayments of property taxes deferred, there exists a one-time revenue loss of the interest differential due to this timing effect.

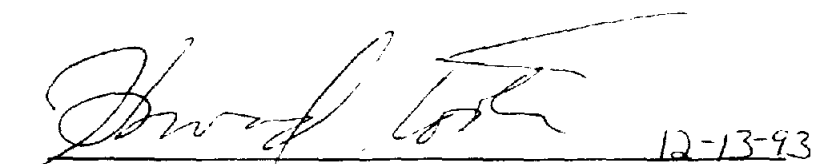
Revenue impacts are expected to be minimal also due to the fact that it is expected that use of a deferral program is likely to be very low. This has generally been the experience of other states. In addition, the Board of Housing currently has a similar program in place, the reverse annuity mortgage loan program, available to persons age 68 and over. In the first two and a half years of operation, only 14 loans have been granted statewide. The historically low participation rate in these types of programs is generally attributable to the fact that taxpayers do not like having liens placed on their properties.

TECHNICAL NOTE:

There are two typos in Section 3 of the bill that need to be changed to make it work as intended. First the equation in Section 3 should read:  $D = MV - A(I)$ . Second, sub-section 1(d) should read June 1993 followed by June 1992, rather than vice versa.

BOARD OF INVESTMENTS: (see next page)

  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
HOWARD TOOLE, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0078, as introduced

HB 78

BOARD OF INVESTMENTS:

ASSUMPTIONS:

1. The Board of Investments would lend up to \$5.0 million from the Short Term Investment Pool (STIP) authorized in Section 17-6-203(3). The loan proceeds would be deposited in the "Property Tax Deferral Account" and used by the Department of Revenue to make payments to county treasurers. The loan would be re-paid to STIP with interest at 8.0% per annum.

FISCAL IMPACT:

1. Although the 8.0% interest required in this legislation is significantly greater than the current interest rate generated by STIP, it is not possible to determine the long-term fiscal impact on STIP for the following reasons:
  - a. The payback period for the loan (duration) is not specified;
  - b. The STIP interest rate fluctuates based on market conditions, while this loan would be fixed at 8.0%; and
  - c. The STIP interest rate cannot be accurately predicted during the loan payback period.

Expenditures:

1. This legislation would not increase Board of Investments expenditures.

Revenues:

1. The impact on STIP participant interest earnings cannot be determined

TECHNICAL NOTE:

1. This legislation requires that the Board of Investments make a loan from the "non-coal tax" portion of STIP. This is technically impossible because the Coal Trust is an active participant in STIP. If a \$5.0 million loan is made from STIP, the Coal Trust would participate in funding the loan.