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SENATE BILL NO. 86

INTRODUCED BY



BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "DEPARTMENT" AS THE TERM APPLIES TO TAXES ON FUEL; REQUIRING THAT TAXES PAYABLE TO THE DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$500,000 OR GREATER BE PAID BY ELECTRONIC FUNDS TRANSFER; AUTHORIZING THE DEPARTMENT TO REQUIRE THAT CERTAIN TAX RETURNS AND INFORMATION BE PROVIDED IN ELECTRONIC FORMAT; AUTHORIZING THE DEPARTMENT TO ADOPT RULES; AMENDING SECTIONS 15-1-101, 15-1-201, AND 15-1-801, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required in [section 7] to adopt rules relating to the filing of certain tax returns by electronic means and to the payment of certain taxes by electronic funds transfer. It is anticipated that the department will adopt rules that address, at a minimum:

- (1) coordinating the filing of tax returns with the payment of taxes by electronic funds transfer;
- (2) specifying the form and content of electronic funds transfer messages in order to ensure the proper receipt and crediting of the tax payment; and
- (3) specifying the form and content of information required by the department in an approved, computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

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

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

**"15-1-101. 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



1 vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for  
2 commercial purposes; and

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

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

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

7 (d) (i) The term "commercial", when used to describe property, means any property used or owned  
8 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except  
9 property described in subsection (1)(d)(ii).

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

11 (A) agricultural lands;

12 (B) timberlands and forest lands;

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

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

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

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

19 (e) The term "comparable property" means property that:

20 (i) has similar use, function, and utility; ~~that~~

21 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
22 factors; and ~~that~~

23 (iii) has the potential of a similar highest and best use.

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

25 (g)(i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
26 provided for in 2-15-1301.

27 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
28 2-15-2501.

29 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
30 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other

1 natural gas found in any coal formation.

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

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

12 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
13 bison, and domestic ungulates.

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

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

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

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

26 (p) The term "real estate" includes:

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

28 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
29 and Title 15, chapter 23, part 8;

30 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United

1 States; and

2 (iv) all rights and privileges appertaining to ~~the~~ mines, minerals, quarries, and timber.

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

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

11 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
12 incorporated town, township, school district, irrigation district, drainage district, or any person, persons,  
13 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

14 (3) The term "state board" or "board" when used without other qualification means the state tax  
15 appeal board."

16

17 **Section 2.** Section 15-1-201, MCA, is amended to read:

18 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over  
19 the administration of the assessment and tax laws of the state, except Title 15, ~~chapter~~ chapters 70 and  
20 71, and over any officers of municipal corporations having any duties to perform under ~~any~~ of the laws of  
21 this state relating to taxation to the end that all assessments of property ~~be~~ are made relatively just and  
22 equal, at true value, and in substantial compliance with law. The department may make rules to supervise  
23 the administration of all revenue laws of the state and assist in their enforcement.

24 (b) The department shall adopt rules specifying which types of property within the several classes  
25 are considered "comparable property" as ~~described~~ defined in 15-1-101.

26 (c) The department shall also adopt rules for determining the value-weighted mean sales  
27 assessment ratio for all commercial and industrial real property and improvements.

28 (2) The department shall confer with, advise, and direct officers of municipal corporations  
29 concerning their duties, with respect to taxation, under the laws of the state.

30 (3) The department shall collect annually from the proper officers of the municipal corporations

1 information, in a form prescribed by the department, about the assessment of property, collection of taxes,  
 2 receipts from licenses and other sources, ~~the~~ expenditure of public funds for all purposes, and other  
 3 information as may be ~~needed~~ necessary and helpful in the work of the department ~~in a form prescribed~~  
 4 ~~by the department~~. It is the duty of all public officers to fill out properly and return promptly to the  
 5 department all forms and to aid the department in its work. The department shall examine the records of  
 6 all municipal corporations for purposes considered ~~needed~~ necessary or helpful."

7

8 **Section 3.** Section 15-1-801, MCA, is amended to read:

9 **"15-1-801. Definitions.** As used in this part, the following definitions apply:

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

11 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 12 check, draft, or similar paper instrument, ~~which~~ that is initiated through an electronic terminal, telephonic  
 13 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 14 or credit an account.

15 (3) "Taxes" means the taxes provided for in this title, except chapters 70 and 71."

16

17 **NEW SECTION. Section 4. Definitions.** As used in this chapter, the following definitions apply:

18 (1) "Department" means the department of transportation as provided for in 2-15-2501.

19 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 20 check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic  
 21 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 22 or credit an account.

23 (3) "Taxes" means the taxes provided for in this chapter.

24

25 **NEW SECTION. Section 5. Taxes payable by electronic funds transfer -- requirement -- limitation.**

26 Taxes due the state must be paid by electronic funds transfer whenever the amount due is \$500,000 or  
 27 greater. If the payment of taxes is required to be made by electronic funds transfer under this section and  
 28 the due date falls on a Saturday, Sunday, or legal holiday, the payment must be made on the first business  
 29 day following the Saturday, Sunday, or legal holiday.

30

1           **NEW SECTION. Section 6. Electronic filing of tax returns and required information.** The  
2 department may require any person, including an importer, exporter, common carrier, private carrier, or  
3 contract carrier, who receives or dispenses taxable fuels and who is licensed or not licensed under this  
4 chapter, to file tax returns and information required by the department in an approved, computer-generated,  
5 magnetic media data format.

6

7           **NEW SECTION. Section 7. Rules.** The department shall adopt rules necessary to implement  
8 [sections 4 through 7], including but not limited to rules:

9           (1) coordinating the filing of tax returns by electronic means with the payment of taxes by  
10 electronic funds transfer;

11           (2) specifying the form and content of electronic funds transfer messages in order to ensure the  
12 proper receipt and crediting of the tax payment; and

13           (3) specifying the form and content of information required by the department in an approved,  
14 computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

15

16           **NEW SECTION. Section 8. Codification instruction.** [Sections 4 through 7] are intended to be  
17 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to  
18 [sections 4 through 7].

19

20           **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 1995.

21

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0086, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the definition of "department" as the term applies to taxes on fuel; requiring that taxes payable to the Department of Transportation in the amount of \$500,000 or greater be paid by electronic funds transfer; authorizing the department to require that certain tax refunds and information be provided in electronic format; and authorizing the department to adopt rules.

ASSUMPTIONS:

1. Passage of this bill would require eight distributors to pay tax payments through electronic funds transfer (wire). Currently five distributors, of the eight, wire their tax payments.
2. Interest revenue to the general fund would increase based on the additional three distributors required to wire their tax payments.
3. Three additional accounts would be required to wire tax payments. The three accounts would have been required to wire \$2,044,317.63 in tax payments for October 1994. Assuming that the check was in the mail three days after the wire would have been received, this would result in an additional three days interest in the general fund. The STIP rate for December was 5.43%. Interest for three days at 5.43% for \$2,044,317.63 is \$912.38. Annually this amounts to \$10,949.

FISCAL IMPACT:

<u>Revenues:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General Fund Interest (01)	\$10,949	\$10,949

Dave Lewis 1-16-95  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

[Signature] 1-17-95  
 DELWYN GAGE, PRIMARY SPONSOR      DATE

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2 INTRODUCED BY GAGE

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

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7 DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$500,000 OR GREATER TO BE PAID BY  
8 ELECTRONIC FUNDS TRANSFER; AUTHORIZING THE DEPARTMENT TO REQUIRE THAT CERTAIN TAX  
9 RETURNS AND INFORMATION BE PROVIDED IN ELECTRONIC FORMAT; AUTHORIZING THE DEPARTMENT  
10 TO ADOPT RULES; AMENDING SECTIONS 15-1-101, 15-1-201, AND 15-1-801, MCA; AND PROVIDING  
11 AN EFFECTIVE DATE."

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13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because the department of transportation is required  
15 in [section 7] to adopt rules relating to the filing of certain tax returns by electronic means and to the  
16 payment of certain taxes by electronic funds transfer. It is anticipated that the department will adopt rules  
17 that address, at a minimum:

- 18 (1) coordinating the filing of tax returns with the payment of taxes by electronic funds transfer;  
19 (2) specifying the form and content of electronic funds transfer messages in order to ensure the  
20 proper receipt and crediting of the tax payment; and  
21 (3) specifying the form and content of information required by the department in an approved,  
22 computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25  
26 **Section 1.** Section 15-1-101, MCA, is amended to read:

27 "**15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in  
28 this section are used in connection with taxation, they are defined in the following manner:

29 (a) The term "agricultural" refers to:

- 30 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and



1 vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for  
2 commercial purposes; and

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

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

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

7 (d) (i) The term "commercial", when used to describe property, means any property used or owned  
8 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except  
9 property described in subsection (1)(d)(ii).

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

11 (A) agricultural lands;

12 (B) timberlands and forest lands;

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

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

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

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

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20 (i) has similar use, function, and utility; ~~that~~

21 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
22 factors; and ~~that~~

23 (iii) has the potential of a similar highest and best use.

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

25 (g)(i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
26 provided for in 2-15-1301.

27 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
28 2-15-2501.

29 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
30 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other

1 natural gas found in any coal formation.

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

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

12 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
13 bison, and domestic ungulates.

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

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

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

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

26 (p) The term "real estate" includes:

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

28 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
29 and Title 15, chapter 23, part 8;

30 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United

1 States; and

2 (iv) all rights and privileges appertaining to ~~the~~ mines, minerals, quarries, and timber.

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

9 (r) The term "taxable value" means the percentage of market or assessed value as provided for in  
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11 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
12 incorporated town, township, school district, irrigation district, drainage district, or any person, persons,  
13 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

14 (3) The term "state board" or "board" when used without other qualification means the state tax  
15 appeal board."

16

17 **Section 2.** Section 15-1-201, MCA, is amended to read:

18 "**15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over  
19 the administration of the assessment and tax laws of the state, except Title 15, ~~chapter~~ chapters 70 and  
20 71, and over any officers of municipal corporations having any duties to perform under ~~any of~~ the laws of  
21 this state relating to taxation to the end that all assessments of property ~~be~~ are made relatively just and  
22 equal, at true value, and in substantial compliance with law. The department may make rules to supervise  
23 the administration of all revenue laws of the state and assist in their enforcement.

24 (b) The department shall adopt rules specifying which types of property within the several classes  
25 are considered "comparable property" as ~~described~~ defined in 15-1-101.

26 (c) The department shall also adopt rules for determining the value-weighted mean sales  
27 assessment ratio for all commercial and industrial real property and improvements.

28 (2) The department shall confer with, advise, and direct officers of municipal corporations  
29 concerning their duties, with respect to taxation, under the laws of the state.

30 (3) The department shall collect annually from the proper officers of the municipal corporations

1 information, in a form prescribed by the department, about the assessment of property, collection of taxes,  
 2 receipts from licenses and other sources, ~~the~~ expenditure of public funds for all purposes, and other  
 3 information as may be ~~needful~~ necessary and helpful in the work of the department ~~in a form prescribed~~  
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 5 department all forms and to aid the department in its work. The department shall examine the records of  
 6 all municipal corporations for purposes considered ~~needful~~ necessary or helpful."

7  
 8 **Section 3.** Section 15-1-801, MCA, is amended to read:

9 **"15-1-801. Definitions.** As used in this part, the following definitions apply:

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 12 check, draft, or similar paper instrument, ~~which~~ that is initiated through an electronic terminal, telephonic  
 13 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 14 or credit an account.

15 (3) "Taxes" means the taxes provided for in this title, except chapters 70 and 71."

16  
 17 **NEW SECTION. Section 4. Definitions.** As used in this chapter, the following definitions apply:

18 (1) "Department" means the department of transportation as provided for in 2-15-2501.

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 20 check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic  
 21 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 22 or credit an account.

23 (3) "Taxes" means the taxes provided for in this chapter.

24  
 25 **NEW SECTION. Section 5. Taxes payable by electronic funds transfer -- requirement -- limitation.**

26 Taxes due the state ~~must~~ MAY be paid by electronic funds transfer whenever the amount due is \$500,000  
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11 AN EFFECTIVE DATE."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.



**HOUSE COMMITTEE OF THE WHOLE AMENDMENT**

Senate Bill 86  
Representative Jore

March 24, 1995 4:03 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 86 (third reading copy -- blue).

Signed: Rick Jore  
Representative Jore

And, that such amendments to Senate Bill 86 read as follows:

- 1. Page 5, line 27.  
Strike: "required to be made"

-END-

ADOPT

98-0

REJECT

SB86  
HOUSE  
AC \_\_\_

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8 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except  
9 property described in subsection (1)(d)(ii).

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

11 (A) agricultural lands;

12 (B) timberlands and forest lands;

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

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

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

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

19 (e) The term "comparable property" means property that;

20 (i) has similar use, function, and utility; ~~that~~

21 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
22 factors; and ~~that~~

23 (iii) has the potential of a similar highest and best use.

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

25 (g)(i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
26 provided for in 2-15-1301.

27 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
28 2-15-2501.

29 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).

30 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other

1 natural gas found in any coal formation.

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

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

12 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
13 bison, and domestic ungulates.

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

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

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

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

26 (p) The term "real estate" includes:

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

28 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
29 and Title 15, chapter 23, part 8;

30 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United

1 States; and

2 (iv) all rights and privileges appertaining to ~~the~~ mines, minerals, quarries, and timber.

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

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

11 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
12 incorporated town, township, school district, irrigation district, drainage district, or any person, persons,  
13 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

14 (3) The term "state board" or "board" when used without other qualification means the state tax  
15 appeal board."

16

17 **Section 2.** Section 15-1-201, MCA, is amended to read:

18 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over  
19 the administration of the assessment and tax laws of the state, except Title 15, ~~chapter~~ chapters 70 and  
20 71, and over any officers of municipal corporations having any duties to perform under ~~any~~ of the laws of  
21 this state relating to taxation to the end that all assessments of property ~~be~~ are made relatively just and  
22 equal, at true value, and in substantial compliance with law. The department may make rules to supervise  
23 the administration of all revenue laws of the state and assist in their enforcement.

24 (b) The department shall adopt rules specifying which types of property within the several classes  
25 are considered "comparable property" as ~~described~~ defined in 15-1-101.

26 (c) The department shall also adopt rules for determining the value-weighted mean sales  
27 assessment ratio for all commercial and industrial real property and improvements.

28 (2) The department shall confer with, advise, and direct officers of municipal corporations  
29 concerning their duties, with respect to taxation, under the laws of the state.

30 (3) The department shall collect annually from the proper officers of the municipal corporations

1 information, in a form prescribed by the department, about the assessment of property, collection of taxes,  
 2 receipts from licenses and other sources, ~~the~~ expenditure of public funds for all purposes, and other  
 3 information as may be ~~needful~~ necessary and helpful in the work of the department ~~in a form prescribed~~  
 4 ~~by the department~~. It is the duty of all public officers to fill out properly and return promptly to the  
 5 department all forms and to aid the department in its work. The department shall examine the records of  
 6 all municipal corporations for purposes considered ~~needful~~ necessary or helpful."

7  
 8 **Section 3.** Section 15-1-801, MCA, is amended to read:

9 **"15-1-801. Definitions.** As used in this part, the following definitions apply:

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

11 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 12 check, draft, or similar paper instrument, ~~which~~ that is initiated through an electronic terminal, telephonic  
 13 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 14 or credit an account.

15 (3) "Taxes" means the taxes provided for in this title, except chapters 70 and 71."

16  
 17 **NEW SECTION. Section 4. Definitions.** As used in this chapter, the following definitions apply:

18 (1) "Department" means the department of transportation as provided for in 2-15-2501.

19 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 20 check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic  
 21 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 22 or credit an account.

23 (3) "Taxes" means the taxes provided for in this chapter.

24  
 25 **NEW SECTION. Section 5. Taxes payable by electronic funds transfer -- ~~requirement~~ -- limitation.**

26 Taxes due the state ~~must~~ MAY be paid by electronic funds transfer whenever the amount due is \$500,000  
 27 or greater. If the payment of taxes is ~~required to be made~~ by electronic funds transfer under this section  
 28 and the due date falls on a Saturday, Sunday, or legal holiday, the payment must be made on the first  
 29 business day following the Saturday, Sunday, or legal holiday.



GOVERNOR'S AMENDMENTS TO  
SENATE BILL NO. 86  
(REFERENCE COPY)  
April 11, 1995

1. Title, line 7.

Strike: "IN THE AMOUNT OF \$500,000 OR GREATER"

2. Page 5, line 25.

Following: "transfer"

Strike: remainder of line 25 through "limitation"

3. Page 5, lines 26 and 27.

Following: "transfer" on line 26

Strike: remainder of line 26 through "greater" on line 27

## 1 SENATE BILL NO. 86

2 INTRODUCED BY GAGE

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "DEPARTMENT" AS THE  
6 TERM APPLIES TO TAXES ON FUEL; ~~REQUIRING THAT~~ ALLOWING TAXES PAYABLE TO THE  
7 DEPARTMENT OF TRANSPORTATION ~~IN THE AMOUNT OF \$500,000 OR GREATER TO~~ BE PAID BY  
8 ELECTRONIC FUNDS TRANSFER; AUTHORIZING THE DEPARTMENT TO REQUIRE THAT CERTAIN TAX  
9 RETURNS AND INFORMATION BE PROVIDED IN ELECTRONIC FORMAT; AUTHORIZING THE DEPARTMENT  
10 TO ADOPT RULES; AMENDING SECTIONS 15-1-101, 15-1-201, AND 15-1-801, MCA; AND PROVIDING  
11 AN EFFECTIVE DATE."

12  
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because the department of transportation is required  
15 in [section 7] to adopt rules relating to the filing of certain tax returns by electronic means and to the  
16 payment of certain taxes by electronic funds transfer. It is anticipated that the department will adopt rules  
17 that address, at a minimum:

- 18 (1) coordinating the filing of tax returns with the payment of taxes by electronic funds transfer;  
19 (2) specifying the form and content of electronic funds transfer messages in order to ensure the  
20 proper receipt and crediting of the tax payment; and  
21 (3) specifying the form and content of information required by the department in an approved,  
22 computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

23  
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
2526 **Section 1.** Section 15-1-101, MCA, is amended to read:

27 "**15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in  
28 this section are used in connection with taxation, they are defined in the following manner:

29 (a) The term "agricultural" refers to:

- 30 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and

1 vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for  
2 commercial purposes; and

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

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

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

7 (d) (i) The term "commercial", when used to describe property, means any property used or owned  
8 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except  
9 property described in subsection (1)(d)(ii).

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

11 (A) agricultural lands;

12 (B) timberlands and forest lands;

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

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

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

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

19 (e) The term "comparable property" means property that:

20 (i) has similar use, function, and utility; ~~that~~

21 (ii) is influenced by the same set of economic trends and physical, governmental, and social  
22 factors; and ~~that~~

23 (iii) has the potential of a similar highest and best use.

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

25 (g)(i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
26 provided for in 2-15-1301.

27 (ii) In chapters 70 and 71, department means the department of transportation provided for in  
28 2-15-2501.

29 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).

30 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other



1 natural gas found in any coal formation.

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

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

12 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
13 bison, and domestic ungulates.

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

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

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

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

26 (p) The term "real estate" includes:

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

28 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
29 and Title 15, chapter 23, part 8;

30 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United

1 States; and

2 (iv) all rights and privileges appertaining to ~~the~~ mines, minerals, quarries, and timber.

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

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

11 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
12 incorporated town, township, school district, irrigation district, drainage district, or any person, persons,  
13 or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

14 (3) The term "state board" or "board" when used without other qualification means the state tax  
15 appeal board."

16

17 **Section 2.** Section 15-1-201, MCA, is amended to read:

18 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over  
19 the administration of the assessment and tax laws of the state, except Title 15, ~~chapter~~ chapters 70 and  
20 71, and over any officers of municipal corporations having any duties to perform under ~~any of~~ the laws of  
21 this state relating to taxation to the end that all assessments of property ~~be~~ are made relatively just and  
22 equal, at true value, and in substantial compliance with law. The department may make rules to supervise  
23 the administration of all revenue laws of the state and assist in their enforcement.

24 (b) The department shall adopt rules specifying which types of property within the several classes  
25 are considered "comparable property" as ~~described~~ defined in 15-1-101.

26 (c) The department shall also adopt rules for determining the value-weighted mean sales  
27 assessment ratio for all commercial and industrial real property and improvements.

28 (2) The department shall confer with, advise, and direct officers of municipal corporations  
29 concerning their duties, with respect to taxation, under the laws of the state.

30 (3) The department shall collect annually from the proper officers of the municipal corporations

1 information, in a form prescribed by the department, about the assessment of property, collection of taxes,  
 2 receipts from licenses and other sources, ~~the~~ expenditure of public funds for all purposes, and other  
 3 information as may be ~~needful~~ necessary and helpful in the work of the department ~~in a form prescribed~~  
 4 ~~by the department~~. It is the duty of all public officers to fill out properly and return promptly to the  
 5 department all forms and to aid the department in its work. The department shall examine the records of  
 6 all municipal corporations for purposes considered ~~needful~~ necessary or helpful."

7

8 **Section 3.** Section 15-1-801, MCA, is amended to read:

9 **"15-1-801. Definitions.** As used in this part, the following definitions apply:

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

11 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 12 check, draft, or similar paper instrument, ~~which~~ that is initiated through an electronic terminal, telephonic  
 13 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 14 or credit an account.

15 (3) "Taxes" means the taxes provided for in this title, except chapters 70 and 71."

16

17 **NEW SECTION. Section 4. Definitions.** As used in this chapter, the following definitions apply:

18 (1) "Department" means the department of transportation as provided for in 2-15-2501.

19 (2) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by  
 20 check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic  
 21 instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
 22 or credit an account.

23 (3) "Taxes" means the taxes provided for in this chapter.

24

25 **NEW SECTION. Section 5. Taxes payable by electronic funds transfer ~~—requirement—~~ limitation.**

26 Taxes due the state ~~must~~ MAY be paid by electronic funds transfer ~~whenever the amount due is \$500,000~~  
 27 ~~or greater~~. If the payment of taxes is ~~required to be made~~ by electronic funds transfer under this section  
 28 and the due date falls on a Saturday, Sunday, or legal holiday, the payment must be made on the first  
 29 business day following the Saturday, Sunday, or legal holiday.

30

1           **NEW SECTION.**   **Section 6. Electronic filing of tax returns and required information.**   The  
2 department may require any person, including an importer, exporter, common carrier, private carrier, or  
3 contract carrier, who receives or dispenses taxable fuels and who is licensed or not licensed under this  
4 chapter, to file tax returns and information required by the department in an approved, computer-generated,  
5 magnetic media data format.

6  
7           **NEW SECTION.**   **Section 7. Rules.**   The department shall adopt rules necessary to implement  
8 [sections 4 through 7], including but not limited to rules:

9           (1) coordinating the filing of tax returns by electronic means with the payment of taxes by  
10 electronic funds transfer;

11           (2) specifying the form and content of electronic funds transfer messages in order to ensure the  
12 proper receipt and crediting of the tax payment; and

13           (3) specifying the form and content of information required by the department in an approved,  
14 computer-generated, magnetic media data format in order to ensure the proper receipt of the information.

15  
16           **NEW SECTION.**   **Section 8. Codification instruction.**   [Sections 4 through 7] are intended to be  
17 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to  
18 [sections 4 through 7].

19  
20           **NEW SECTION.**   **Section 9. Effective date.**   [This act] is effective July 1, 1995.

21

-END-