

## SENATE BILL NO. 257

INTRODUCED BY



A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RAIL CAR TAX BY DEFINING CLASSES OF RAIL CARS AND MILEAGE ATTRIBUTABLE TO CLASSES OF RAIL CARS; AMENDING SECTIONS 15-23-211, 15-23-212, AND 15-23-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-23-211, MCA, is amended to read:

"**15-23-211. Definitions.** As used in 15-23-211 through 15-23-216, unless the context requires otherwise, the following definitions apply:

(1) "Average levy" means the average statewide rate of taxation on commercial and industrial property.

(2) "Class of car" means class F-flat, class G-gondola, class H-hopper, class L-special, class MW-maintenance of way, class N-caboose, class P-passenger, class R-refrigerator, class S-stock, class T-tank, and class X-box, as used by the association of American railroads, operation and maintenance department, mechanical division in the classification of freight equipment cars. A class includes subclasses of the class.

(3) "Miles per day per class of car" means for class F-flat, 500 miles per day; for class G-gondola, 525 miles per day; for subclass LO of class L-special, 250 miles per day; and for all other classes of car, 175 miles per day.

~~(2)~~(4) "Person" includes an individual, firm, association, company, partnership, corporation, joint-stock company, agency, syndicate, or cooperative.

~~(3)~~(5) "Private railroad cars" means all railroad cars that:

- (a) are not owned by a railroad company operating in this state;
- (b) are used for transporting persons or freight; and
- (c) are not otherwise assessed for property taxation in this state.

~~(4)~~(6) "Railroad car company" means any person, other than a railroad company, engaged in

1 operating, leasing, or furnishing private railroad cars, whether or not owned by that person, for the  
2 transportation of persons or freight over railroad lines located wholly or partially within this state."

3  
4 **Section 2.** Section 15-23-212, MCA, is amended to read:

5 "15-23-212. **Annual report.** Each railroad car company shall, annually and within the time  
6 requirements of 15-23-103(3) and (4), file with the department of revenue a report, signed and sworn to  
7 by one of its designated officers, that provides the following information as of the preceding December 31:

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

9 (2) the number, ~~kind~~ class of car, acquisition cost, date of acquisition, and name of owner of its  
10 private railroad cars;

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

13 (4) the total car miles traveled by class of car, loaded and unloaded, within the state during the  
14 calendar year preceding the date of filing;

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

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

18 ~~(7)~~(5) the description and location of real and personal property that is owned by the railroad car  
19 company and that is subject to taxation within this state; and

20 ~~(8)~~(6) any other facts that the department may require."  
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22 **Section 3.** Section 15-23-213, MCA, is amended to read:

23 "15-23-213. **Assessment -- allocation -- taxable value.** (1) The department of revenue shall assess  
24 the property in the name of the railroad car company owning the property unless the property is reported  
25 by another person leasing or operating the property.

26 (2) The allocation of property to this state must be made on the ~~basis of the car miles traveled~~  
27 ~~within the state to the total car miles traveled unless the department by administrative rule adopts a~~  
28 ~~different formula~~ average number of cars necessary to make the Montana miles. The average number of  
29 cars necessary to make the Montana miles must be determined by the company's class of car's or cars'  
30 annual Montana mileage divided by the product of the miles per day per class of car multiplied by the

1 number of days in the year.

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

5  
6 **NEW SECTION. Section 4. Effective date -- retroactive applicability.** [This act] is effective on  
7 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
8 December 31, 1994.

9 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0257, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the rail car tax by defining classes of rail cars and mileage attributable to classes of rail cars; and providing an immediate effective date and retroactive applicability date.

ASSUMPTIONS:

1. Revenue Oversight Committee assumed no revenue from the rail car tax (the Governor's Executive Budget assumed \$3,000,000 in each year of the biennium).
2. It is estimated that the proposal will result in a revenue of \$1,400,000 in FY96 and in FY97 and each subsequent fiscal year.
3. The proposal will require additional expenditures of \$16,300 in FY96 and \$10,300 in FY97 and subsequent fiscal years.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
Personal Services	\$9,300	\$9,300
Operating Expenses	\$1,000	\$1,000
Equipment	<u>\$6,000</u>	<u>0</u>
	\$16,300	\$10,300

Revenues:

General Fund	\$1,400,000	\$1,400,000
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Net Impact: (Increase in Revenue)

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
General Fund	\$1,383,700	\$1,389,700

*Dave Lewis 1-31-95*

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

*Delwyn Gage*

DELWYN GAGE, PRIMARY SPONSOR DATE  
Fiscal Note for SB0257, as introduced

*2-1-95*

**SB 257**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0257, free conference

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the rail car tax by defining classes of rail cars and mileage attributable to classes of rail cars; and providing an immediate effective date and retroactive applicability date.

ASSUMPTIONS:

1. Revenue Oversight Committee assumed no revenue from the rail car tax (the Governor's Executive Budget assumed \$3,000,000 in each year of the biennium).
2. It is estimated that the proposal will result in a revenue of \$1,947,000 in FY96 and FY97. The repealer will require the taxation of railcars to be revisited during the next regular session.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Revenues:		
General Fund	\$1,947,000	\$1,947,000

Dave Lewis 4-13-95  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Delwyn Gage 4/13/95  
DELWYN GAGE, PRIMARY SPONSOR DATE  
Fiscal Note for SB0257, free conference

SB 257- #2

1

SENATE BILL NO. 257

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INTRODUCED BY

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(2) "Class of car" means class F-flat, class G-gondola, class H-hopper, class L-special, class MW-maintenance of way, class N-caboose, class P-passenger, class R-refrigerator, class S-stock, class T-tank, and class X-box, as used by the association of American railroads, operation and maintenance department, mechanical division in the classification of freight equipment cars. A class includes subclasses of the class.

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(3) "Miles per day per class of car" means for class F-flat, 500 miles per day; for class G-gondola, 525 miles per day; for subclass LO of class L-special, 250 miles per day; and for all other classes of car, 175 miles per day.

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~~(2)~~(4) "Person" includes an individual, firm, association, company, partnership, corporation, joint-stock company, agency, syndicate, or cooperative.

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~~(3)~~(5) "Private railroad cars" means all railroad cars that:

27

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

28

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

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(c) are not otherwise assessed for property taxation in this state.

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~~(4)~~(6) "Railroad car company" means any person, other than a railroad company, engaged in

1 operating, leasing, or furnishing private railroad cars, whether or not owned by that person, for the  
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 12 other modification or improvement to a car since acquisition;

13 (4) the total car miles traveled by class of car, loaded and unloaded, within the state during the  
 14 calendar year preceding the date of filing;

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1 number of days in the year.

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-END-



## SENATE BILL NO. 257

INTRODUCED BY *[Signature]*

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7 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
8 December 31, 1994.

9

-END-



## HOUSE STANDING COMMITTEE REPORT

April 6, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 257 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

Handwritten signature of Chase Hibbard in cursive.

*Chase Hibbard, Chair*

**And, that such amendments read:**

**Carried by: Rep. Story**

1. Title, lines 4 and 5.

Following: "BY" on line 4

Strike: remainder of line 4 through the second "CARS" on line 5

Insert: "ALLOCATING VALUE BASED UPON MILES AND EQUIVALENT CAR  
COUNT; USING THE AVERAGE MILL LEVY APPLIED TO RAILROAD  
PROPERTY"

2. Title, line 6.

Following: "DATE"

Insert: ", "

Strike: "AND"

3. Title, line 7.

Following: "DATE"

Insert: ", AND A TERMINATION DATE"

4. Page 1, line 14.

Strike: "statewide" through "industrial"

Insert: "mill levy applied to all railroad transportation"

5. Page 1, line 15.

Following: "property"

Insert: "specified in 15-6-145, except for railroad car company  
property"

**SB 257**

Committee Vote:  
Yes 13, No 7.

**HOUSE**  
791616SC.Hdh

6. Page 1, lines 16 through 23.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

7. Page 2.

Following: line 17

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

Renumber: subsequent subsections

8. Page 2, line 26.

Strike: "made on the"

9. Page 2, lines 28 and 29.

Strike: first "average" on line 28 through "miles" on line 29

Insert: "calculated by taking one-third of the ratio of car miles  
traveled within the state to the total car miles traveled,  
plus two-thirds of the ratio of equivalent car count to the  
total number of cars. The equivalent car count"

Following: "company's"

Strike: remainder of line 29 in its entirety

10. Page 2, line 30.

Following: "mileage"

Insert: "for all its cars"

Strike: "the miles" through "car"

Insert: "500 miles per day"

11. Page 3, line 9.

Insert: "NEW SECTION. Section 5. Termination. [This act]  
terminates December 31, 1997."

-END-

## 1 SENATE BILL NO. 257

2 INTRODUCED BY GAGE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RAIL CAR TAX BY ~~DEFINING CLASSES OF RAIL~~  
 5 ~~CARS AND MILEAGE ATTRIBUTABLE TO CLASSES OF RAIL CARS~~ ALLOCATING VALUE BASED UPON  
 6 MILES AND EQUIVALENT CAR COUNT; USING THE AVERAGE MILL LEVY APPLIED TO RAILROAD  
 7 PROPERTY; AMENDING SECTIONS 15-23-211, 15-23-212, AND 15-23-213, MCA; AND PROVIDING AN  
 8 IMMEDIATE EFFECTIVE DATE, ~~AND A RETROACTIVE APPLICABILITY DATE,~~ AND A TERMINATION  
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 15 otherwise, the following definitions apply:

16 (1) "Average levy" means the average ~~statewide rate of taxation on commercial and industrial~~ MILL  
 17 LEVY APPLIED TO ALL RAILROAD TRANSPORTATION property SPECIFIED IN 15-6-145, EXCEPT FOR  
 18 RAILROAD CAR COMPANY PROPERTY.

19 ~~(2) "Class of car" means class F flat, class G gondola, class H hopper, class L special, class~~  
 20 ~~MW maintenance of way, class N caboose, class P passenger, class R refrigerator, class S stock, class~~  
 21 ~~T tank, and class X box, as used by the association of American railroads, operation and maintenance~~  
 22 ~~department, mechanical division in the classification of freight equipment cars. A class includes subclasses~~  
 23 ~~of the class.~~

24 ~~(3) "Miles per day per class of car" means for class F flat, 500 miles per day; for class G gondola,~~  
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 26 ~~175 miles per day.~~

27 ~~(2)(4)(2)~~ "Person" includes an individual, firm, association, company, partnership, corporation,  
 28 joint-stock company, agency, syndicate, or cooperative.

29 ~~(3)(5)(3)~~ "Private railroad cars" means all railroad cars that:

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

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

2 (c) are not otherwise assessed for property taxation in this state.

3 ~~(4)(6)(4)~~ "Railroad car company" means any person, other than a railroad company, engaged in  
4 operating, leasing, or furnishing private railroad cars, whether or not owned by that person, for the  
5 transportation of persons or freight over railroad lines located wholly or partially within this state."  
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15 other modification or improvement to a car since acquisition;

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17 calendar year preceding the date of filing;

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

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

21 (5) THE TOTAL CAR MILES TRAVELED, LOADED AND UNLOADED, WITHIN AND OUTSIDE OF THE  
22 STATE DURING THE CALENDAR YEAR PRECEDING THE DATE OF FILING;

23 ~~(7)(5)(6)~~ the description and location of real and personal property that is owned by the railroad  
24 car company and that is subject to taxation within this state; and

25 ~~(8)(6)(7)~~ any other facts that the department may require."  
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3 ~~different formula average number of cars necessary to make the Montana miles. The average number of~~  
4 ~~cars necessary to make the Montana miles~~ CALCULATED BY TAKING ONE-THIRD OF THE RATIO OF CAR  
5 MILES TRAVELED WITHIN THE STATE TO THE TOTAL CAR MILES TRAVELED, PLUS TWO-THIRDS OF  
6 THE RATIO OF EQUIVALENT CAR COUNT TO THE TOTAL NUMBER OF CARS. THE EQUIVALENT CAR  
7 COUNT must be determined by the company's ~~class of car's or cars'~~ annual Montana mileage FOR ALL ITS  
8 CARS divided by the product of ~~the miles per day per class of car~~ 500 MILES PER DAY multiplied by the  
9 number of days in the year.

10 (3) In determining taxable value, the department shall use the percentage rate "R", as provided in  
11 15-6-145, to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory  
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15 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
16 December 31, 1994.

17  
18 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 1997.

19 -END-



Free Conference Committee  
on SB 257  
Report No. 1, April 12, 1995

Page 1 of 10

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 257, met and considered:

SB 257 in its entirety

We recommend that SB 257 (reference copy as amended - salmon) be amended as follows:

1. Title, line 7.

Following: "SECTIONS"

Insert: "15-6-145, 15-6-201, 15-23-101, 15-23-103, 15-23-104, 15-23-105, 15-23-201,"

Following: "MCA;"

Insert: "REPEALING SECTIONS 15-23-211, 15-23-212, 15-23-213, 15-23-214, 15-23-215, AND 15-23-216, MCA;"

2. Title, line 7.

Strike: "AN"

3. Title, line 8.

Strike: "IMMEDIATE"

Following: "EFFECTIVE"

Strike: "DATE,"

Insert: "DATES AND"

4. Title, lines 8 and 9.

Following: the second "DATE"

Strike: the remainder of line 8 through "DATE" on line 9

5. Page 3, line 4.

Strike: "ONE-THIRD"

Insert: "one-fourth"

6. Page 3, line 5.

Strike: "TWO-THIRDS"

Insert: "three-fourths"

7. Page 3.

Following: line 12

Insert: "**Section 4.** Section 15-6-201, MCA, is amended to read:

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

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to

ADOPT

REJECT

SB 257  
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tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

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

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

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

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

(d) property that meets the following conditions:

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

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

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

(e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;

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

(g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;

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

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

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

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

- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;
- (n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;
- (o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;
- (p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;
- (q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.
- (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
  - (i) construct, repair, and maintain improvements to real property; or
  - (ii) repair and maintain machinery, equipment, appliances, or other personal property;
  - (s) harness, saddlery, and other tack equipment;
  - (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;
  - (u) beginning January 1, 1994, timber as defined in 15-44-102; and
  - (v) all trailers and semitrailers with a licensed gross weight of 26,000 pounds or more. For purposes of this subsection (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that is:
    - (i) designed and used only for carrying property;
    - (ii) designed and used to be drawn by a motor vehicle; and
    - (iii) either constructed so that no part of its weight

rests upon the towing vehicle or constructed so that some part of its weight and the weight of its load rests upon or is carried by another vehicle; and

(w) railroad cars not owned by a railroad company.

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

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

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

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

**Section 5.** Section 15-6-145, MCA, is amended to read:

**"15-6-145. Class twelve property -- description -- taxable percentage.** (1) ~~Class twelve property includes all property of a railroad car company as defined in 15-23-211, all railroad transportation property, except railroad cars not owned by a railroad company,~~ as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on

January 1, 1986.

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

(3)  $R = A/B$  where:

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

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

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall conduct a sales assessment ratio study of all commercial and industrial real property and improvements. The study must be based on:

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

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

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

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

(5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class twelve property, as commercial property is defined in 15-1-101(1)(d)."

**Section 6.** Section 15-23-101, MCA, is amended to read:

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

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

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph,

telephone, microwave, electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

- (3) all property of scheduled airlines;
- (4) the net proceeds of mines and of oil and gas wells;
- (5) the gross proceeds of coal mines; and
- (6) property described in subsections (1) and (2) which is subject to the provisions of Title 15, chapter 24, part 12."

**Section 7.** Section 15-23-103, MCA, is amended to read:

**"15-23-103. Due date of reports and returns -- extensions.**

(1) Except as provided in subsection (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or 15-23-517 must be delivered to the department on or before March 31 each year.

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

(3) Each report described in 15-23-201, ~~15-23-212,~~ 15-23-515, or 15-23-516 must be delivered to the department before April 15 each year.

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

**Section 8.** Section 15-23-104, MCA, is amended to read:

**"15-23-104. Failure to file -- estimate by department -- penalty.** ~~(1)~~ If any person fails to file a report or return within the time established in 15-23-103 or by a later date approved by the department, the department shall estimate the value of the property that should have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or the person's agent as specified in 15-1-302. An assessment pursuant to parts 5 through 8 of this chapter based on estimated value or imputed value is subject to review under 15-1-211. For each month or part of a month that a report is delinquent, the department shall impose and collect a \$25 penalty, with the total not to exceed \$200, and

shall deposit the penalty to the credit of the general fund. The department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent. The department shall notify the county treasurer of each affected county of the amount of the penalty, and the treasurer shall collect the penalty in the same manner as the taxes to which the penalty applies.

~~(2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent."~~

**Section 9.** Section 15-23-105, MCA, is amended to read:

**"15-23-105. Apportionment among counties.** The department shall apportion the value of property assessed under 15-23-101, 15-23-202, or 15-23-403, ~~other than railroad car company property,~~ among the counties in which such property is located. Apportionment shall be on a mileage basis or on the basis of the original installed cost of the centrally assessed property located in the respective counties. If the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage or on the basis of the original installed cost of the centrally assessed property located in the respective counties, the department may adopt such other method or basis of apportionment as may be just or proper."

**Section 10.** Section 15-23-201, MCA, is amended to read:

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

(1) the whole number of miles of railroad in the state and, where the line is partly out of the state, the whole number of miles without the state and the whole number within the state, owned or operated by such corporation, person, or association;

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

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

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

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

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

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

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

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

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

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

(12) the gross earnings of the entire road;

(13) the gross earnings of the road within the state and, if the railroad is let to other operators, how much was derived by the lessor as rental;

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

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

(16) capital stock authorized;

(17) capital stock paid in;

(18) funded debt;

(19) number of shares authorized;

(20) number of shares of stock issued; and

(21) ~~number, kind, and total number of miles traveled~~



~~within the state by railroad cars owned by railroad car companies; and~~  
(22) any other facts the department may require."

NEW SECTION. **Section 11. Repealer.** Sections 15-23-211, 15-23-212, 15-23-213, 15-23-214, 15-23-215, and 15-23-216, MCA, are repealed."  
Renumber: subsequent sections

8. Page 3, line 14.  
Strike: "date"  
Insert: "dates"  
Following: "applicability."  
Insert: "(1)"  
Strike: "[This act] is"  
Insert: "[Sections 1 through 3 and this section] are"

9. Page 3, line 15.  
Strike: "applies"  
Insert: "apply"

10. Page 3.  
Following: line 16  
Insert: "(2) [Sections 4 through 11] are effective January 1, 1998."

11. Page 3, line 18.  
Strike: Section 5 in its entirety

And that this Free Conference Committee report be adopted.

For the Senate:

For the House:

Gage  
\_\_\_\_\_  
Chair

Grinde  
GRINDE  
\_\_\_\_\_  
Chair

Harp  
[Signature]  
\_\_\_\_\_

Arnott  
ARNOTT  
\_\_\_\_\_

Eck  
[Signature]  
\_\_\_\_\_  
Amd. Coord.

Swanson  
\_\_\_\_\_

## 1 SENATE BILL NO. 257

2 INTRODUCED BY GAGE

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RAIL CAR TAX BY ~~DEFINING CLASSES OF RAIL~~  
 5 ~~CARS AND MILEAGE ATTRIBUTABLE TO CLASSES OF RAIL CARS~~ ALLOCATING VALUE BASED UPON  
 6 MILES AND EQUIVALENT CAR COUNT; USING THE AVERAGE MILL LEVY APPLIED TO RAILROAD  
 7 PROPERTY; AMENDING SECTIONS 15-6-145, 15-6-201, 15-23-101, 15-23-103, 15-23-104, 15-23-105,  
 8 15-23-201, 15-23-211, 15-23-212, AND 15-23-213, MCA; REPEALING SECTIONS 15-23-211, 15-23-212,  
 9 15-23-213, 15-23-214, 15-23-215, AND 15-23-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 10 DATE, DATES AND AND A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
 14 **Section 1.** Section 15-23-211, MCA, is amended to read:

15 "15-23-211. **Definitions.** As used in 15-23-211 through 15-23-216, unless the context requires  
 16 otherwise, the following definitions apply:

17 (1) "Average levy" means the average ~~statewide rate of taxation on commercial and industrial~~ MILL  
 18 LEVY APPLIED TO ALL RAILROAD TRANSPORTATION property SPECIFIED IN 15-6-145, EXCEPT FOR  
 19 RAILROAD CAR COMPANY PROPERTY.

20 ~~(2) "Class of car" means class F flat, class G gondola, class H hopper, class L special, class~~  
 21 ~~MW maintenance of way, class N caboose, class P passenger, class R refrigerator, class S stock, class~~  
 22 ~~T tank, and class X box, as used by the association of American railroads, operation and maintenance~~  
 23 ~~department, mechanical division in the classification of freight equipment cars. A class includes subclasses~~  
 24 ~~of the class.~~

25 ~~(3) "Miles per day per class of car" means for class F flat, 500 miles per day; for class G gondola,~~  
 26 ~~525 miles per day; for subclass LO of class L special, 250 miles per day; and for all other classes of car,~~  
 27 ~~175 miles per day.~~

28 ~~(2)(4)(2)~~ "Person" includes an individual, firm, association, company, partnership, corporation,  
 29 joint-stock company, agency, syndicate, or cooperative.

30 ~~(3)(5)(3)~~ "Private railroad cars" means all railroad cars that:

- 1 (a) are not owned by a railroad company operating in this state;  
 2 (b) are used for transporting persons or freight; and  
 3 (c) are not otherwise assessed for property taxation in this state.

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

8 **Section 2.** Section 15-23-212, MCA, is amended to read:

9 **"15-23-212. Annual report.** Each railroad car company shall, annually and within the time  
 10 requirements of 15-23-103(3) and (4), file with the department of revenue a report, signed and sworn to  
 11 by one of its designated officers, that provides the following information as of the preceding December 31:

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

13 (2) the number, ~~kind~~ class of car, acquisition cost, date of acquisition, and name of owner of its  
 14 private railroad cars;

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

17 (4) the total car miles traveled by class of car, loaded and unloaded, within the state during the  
 18 calendar year preceding the date of filing;

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

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

22 (5) THE TOTAL CAR MILES TRAVELED, LOADED AND UNLOADED, WITHIN AND OUTSIDE OF THE  
 23 STATE DURING THE CALENDAR YEAR PRECEDING THE DATE OF FILING;

24 ~~(7)(5)(6)~~ the description and location of real and personal property that is owned by the railroad  
 25 car company and that is subject to taxation within this state; and

26 ~~(8)(6)(7)~~ any other facts that the department may require."  
 27

28 **Section 3.** Section 15-23-213, MCA, is amended to read:

29 **"15-23-213. Assessment -- allocation -- taxable value.** (1) The department of revenue shall assess  
 30 the property in the name of the railroad car company owning the property unless the property is reported

1 by another person leasing or operating the property.

2 (2) The allocation of property to this state must be ~~made on the basis of the car miles traveled~~  
 3 ~~within the state to the total car miles traveled unless the department by administrative rule adopts a~~  
 4 ~~different formula average number of cars necessary to make the Montana miles. The average number of~~  
 5 ~~cars necessary to make the Montana miles~~ CALCULATED BY TAKING ONE-THIRD ONE-FOURTH OF THE  
 6 RATIO OF CAR MILES TRAVELED WITHIN THE STATE TO THE TOTAL CAR MILES TRAVELED, PLUS  
 7 TWO-THIRDS THREE-FOURTHS OF THE RATIO OF EQUIVALENT CAR COUNT TO THE TOTAL NUMBER  
 8 OF CARS. THE EQUIVALENT CAR COUNT must be determined by the company's class of car's or cars'  
 9 annual Montana mileage FOR ALL ITS CARS divided by the product of the miles per day per class of car  
 10 500 MILES PER DAY multiplied by the number of days in the year.

11 (3) In determining taxable value, the department shall use the percentage rate "R", as provided in  
 12 15-6-145, to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory  
 13 Reform Act of 1976, as amended."

14

15 **SECTION 4. SECTION 15-6-201, MCA, IS AMENDED TO READ:**

16 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

17 (a) except as provided in 15-24-1203, the property of:

18 (i) the United States, except:

19 (A) if congress passes legislation that allows the state to tax property owned by the federal  
 20 government or an agency created by congress; or

21 (B) as provided in 15-24-1103;

22 (ii) the state, counties, cities, towns, and school districts;

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

24 (iv) municipal corporations;

25 (v) public libraries; and

26 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

27 (b) buildings, with land they occupy and furnishings in the buildings, owned by a church and used  
 28 for actual religious worship or for residences of the clergy, together with adjacent land reasonably  
 29 necessary for convenient use of the buildings;

30 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,

1 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and  
2 environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not  
3 licensed by the department of health and environmental sciences and organized under Title 35, chapter 2  
4 or 3, is not exempt.

5 (d) property that meets the following conditions:

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

8 (ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a  
9 permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part  
10 3; and

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

12 (e) property owned by institutions of purely public charity and directly used for purely public  
13 charitable purposes;

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

16 (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate  
17 profit;

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

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

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

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

25 (l) all watercraft;

26 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association  
27 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than  
28 the irrigation of agricultural land;

29 (n) the right of entry that is a property right reserved in land or received by mesne conveyance  
30 (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another

1 to explore, prospect, or dig for oil, gas, coal, or minerals;

2 (o) property owned and used by a corporation or association organized and operated exclusively  
3 for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in  
4 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning  
5 and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain  
6 or profit;

7 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and  
8 machinery with a market value of less than \$100;

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

14 (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
15 hand-held and that are used to:

16 (i) construct, repair, and maintain improvements to real property; or

17 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

18 (s) harness, saddlery, and other tack equipment;

19 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in  
20 33-25-105;

21 (u) beginning January 1, 1994, timber as defined in 15-44-102; ~~and~~

22 (v) all trailers and semitrailers with a licensed gross weight of 26,000 pounds or more. For  
23 purposes of this subsection (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive  
24 power that is:

25 (i) designed and used only for carrying property;

26 (ii) designed and used to be drawn by a motor vehicle; and

27 (iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed  
28 so that some part of its weight and the weight of its load rests upon or is carried by another vehicle; and

29 (w) railroad cars not owned by a railroad company.

30 (2) (a) The term "institutions of purely public charity" includes any organization that meets the

1 following requirements:

2 (i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3),  
3 Internal Revenue Code, as amended.

4 (ii) The organization accomplishes its activities through absolute gratuity or grants; however, the  
5 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
6 performances or entertainment or by other similar types of fundraising activities.

7 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
8 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
9 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property  
10 includes all real and personal property reasonably necessary for use in connection with the public display  
11 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit  
12 organization by an individual or for-profit organization, real and personal property owned by other persons  
13 is exempt if it is:

14 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

15 (ii) held for future display; or

16 (iii) used to house or store a public display.

17 (3) The following portions of the appraised value of a capital investment made after January 1,  
18 1979, in a recognized nonfossil form of energy generation or low emission wood or biomass combustion  
19 devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation  
20 of the property:

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

22 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."  
23

24 **SECTION 5. SECTION 15-6-145, MCA, IS AMENDED TO READ:**

25 "15-6-145. **Class twelve property -- description -- taxable percentage.** (1) Class twelve property  
26 includes ~~all property of a railroad car company as defined in 15-23-211~~, all railroad transportation property,  
27 except railroad cars not owned by a railroad company, as described in the Railroad Revitalization and  
28 Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as  
29 described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

30 (2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve

1 property is taxed at the percentage rate "R", to be determined by the department as provided in subsection  
2 (3), or 12%, whichever is less.

3 (3) R = A/B where:

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

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

8 (4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the  
9 department shall conduct a sales assessment ratio study of all commercial and industrial real property and  
10 improvements. The study must be based on:

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

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

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

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

22 (5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of  
23 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax  
24 rate generally applicable to commercial and industrial property, except class twelve property, as commercial  
25 property is defined in 15-1-101(1)(d)."

26

27 **SECTION 6. SECTION 15-23-101, MCA, IS AMENDED TO READ:**

28 **"15-23-101. Properties centrally assessed.** The department of revenue shall centrally assess each  
29 year:

30 (1) the franchise, roadway, roadbeds, rails, rolling stock, and all other operating property of



1 railroads ~~and railroad car companies~~ operating in more than one county in the state or more than one state;

2 (2) property owned by a corporation or other person operating a single and continuous property  
3 operated in more than one county or more than one state, including telegraph, telephone, microwave,  
4 electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties  
5 and including, if congress passes legislation that allows the state to tax property owned by an agency  
6 created by congress to transmit or distribute electrical energy, property constructed, owned, or operated  
7 by a public agency created by the congress to transmit or distribute electric energy produced at privately  
8 owned generating facilities (not including rural electric cooperatives);

9 (3) all property of scheduled airlines;

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

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

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

14  
15 **SECTION 7. SECTION 15-23-103, MCA, IS AMENDED TO READ:**

16 "15-23-103. **Due date of reports and returns -- extensions.** (1) Except as provided in subsection  
17 (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, 15-23-701, or  
18 15-23-517 must be delivered to the department on or before March 31 each year.

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

21 (3) Each report described in 15-23-201, ~~15-23-212~~, 15-23-515, or 15-23-516 must be delivered  
22 to the department before April 15 each year.

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

25  
26 **SECTION 8. SECTION 15-23-104, MCA, IS AMENDED TO READ:**

27 "15-23-104. **Failure to file -- estimate by department -- penalty.** (1) If any person fails to file a  
28 report or return within the time established in 15-23-103 or by a later date approved by the department,  
29 the department shall estimate the value of the property that should have been reported on the basis of the  
30 best available information. In estimating the value of the net proceeds of mines, the department shall

1 proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department  
 2 shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under  
 3 parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under  
 4 this section, the department may subpoena a person or the person's agent as specified in 15-1-302. An  
 5 assessment pursuant to parts 5 through 8 of this chapter based on estimated value or imputed value is  
 6 subject to review under 15-1-211. For each month or part of a month that a report is delinquent, the  
 7 department shall impose and collect a \$25 penalty, with the total not to exceed \$200, and shall deposit  
 8 the penalty to the credit of the general fund. The department shall assess a penalty of 1% of the tax due  
 9 for each month or part of a month that the report is delinquent. The department shall notify the county  
 10 treasurer of each affected county of the amount of the penalty, and the treasurer shall collect the penalty  
 11 in the same manner as the taxes to which the penalty applies.

12 ~~(2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1%~~  
 13 ~~of the tax due for each month or part of a month that the report is delinquent."~~

14

15 **SECTION 9. SECTION 15-23-105, MCA, IS AMENDED TO READ:**

16 "15-23-105. **Apportionment among counties.** The department shall apportion the value of property  
 17 assessed under 15-23-101, 15-23-202, or 15-23-403, ~~other than railroad-car company property,~~ among  
 18 the counties in which such property is located. Apportionment shall be on a mileage basis or on the basis  
 19 of the original installed cost of the centrally assessed property located in the respective counties. If the  
 20 property is of such a character that its value cannot reasonably be apportioned on the basis of mileage or  
 21 on the basis of the original installed cost of the centrally assessed property located in the respective  
 22 counties, the department may adopt such other method or basis of apportionment as may be just or  
 23 proper."

24

25 **SECTION 10. SECTION 15-23-201, MCA, IS AMENDED TO READ:**

26 "15-23-201. **Assessment of railroads.** The president, secretary, or managing agent or such other  
 27 officer as the department of revenue may designate of any corporation and each person or association of  
 28 persons owning or operating any railroad in more than one county in this state or more than one state must  
 29 on or before April 15 each year furnish the department a statement signed and sworn to by one of such  
 30 officers or by the person or one of the persons forming such association, showing in detail for the year

1 ending December 31 immediately preceding:

2 (1) the whole number of miles of railroad in the state and, where the line is partly out of the state,  
3 the whole number of miles without the state and the whole number within the state; owned or operated  
4 by such corporation, person, or association;

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

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

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

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

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

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

15 (8) the whole number of sidetracks in each county, including the number of miles of track in each  
16 railroad yard in the state;

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

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

25 (11) a description of the road, giving the points of entrance into and the points of exit from each  
26 county, with a statement of the number of miles in each county. When a description of the road has once  
27 been given, no other annual description thereof is necessary unless the road has been changed. Whenever  
28 the road or any portion of the road is advertised to be sold or is sold for taxes, either state or county, no  
29 other description is necessary than that given by, and the same is conclusive upon, the person, corporation,  
30 or association giving the description. No assessment is invalid on account of a misdescription of the railroad

1 or the right-of-way for the same. If such statement is not furnished as above provided, the assessment  
 2 made by the department upon the property of the corporation, person, or association failing to furnish the  
 3 statement is conclusive and final.

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

5 (13) the gross earnings of the road within the state and, if the railroad is let to other operators,  
 6 how much was derived by the lessor as rental;

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

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

10 (16) capital stock authorized;

11 (17) capital stock paid in;

12 (18) funded debt;

13 (19) number of shares authorized;

14 (20) number of shares of stock issued; and

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

17 ~~{22} any other facts the department may require."~~

18

19 NEW SECTION. SECTION 11. REPEALER. SECTIONS 15-23-211, 15-23-212, 15-23-213,  
 20 15-23-214, 15-23-215, AND 15-23-216, MCA, ARE REPEALED.

21

22 NEW SECTION. Section 12. Effective date DATES -- retroactive applicability. (1) [This act] is  
 23 [SECTIONS 1 THROUGH 3 AND THIS SECTION] ARE effective on passage and approval and applies APPLY  
 24 retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1994.

25 (2) [SECTIONS 4 THROUGH 11] ARE EFFECTIVE JANUARY 1, 1998.

26

27 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 1997.

28

-END-