

1 HOUSE BILL NO. 70

2 INTRODUCED BY HIBBARD

3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING RECREATIONAL LEASES FROM THE BENEFICIAL
6 USE PROPERTY TAX; AMENDING SECTIONS 15-1-101 AND 15-24-1203, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

8

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

10

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

12 "15-1-101. **Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in
13 this section are used in connection with taxation, they are defined in the following manner:

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

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

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

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

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

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

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

26 (A) agricultural lands;

27 (B) timberlands and forest lands;

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

30 (D) mobile homes used exclusively as a residence except when held by a distributor or dealer of

INTRODUCED BILL

1 trailers or mobile homes as stock in trade;

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

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

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

5 (i) has similar use, function, and utility;

6 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors;

7 and

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

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

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

12 (ii) In chapters 70 and 71, department means the department of transportation provided for in
13 2-15-2501.

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

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

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

27 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,
28 bison, ostriches, rheas, emus, and domestic ungulates.

29 (l) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer
30 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another

1 by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in
2 width or 45 feet in length used as a principal residence.

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

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

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

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

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

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

15 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United
16 States; and

17 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

18 (q) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking,
19 and winter sports, including but not limited to skiing, skating, and snowmobiling.

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

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

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

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

3

4 **Section 2.** Section 15-24-1203, MCA, is amended to read:

5 **"15-24-1203. Privilege tax on industrial, trade, or other business use of tax-exempt property --**
6 **exceptions. (1)** There is imposed and must be collected a tax upon the possession or other beneficial use
7 for industrial, trade, or other business purposes enjoyed by any private individual, association, or
8 corporation of any property, real or personal, that for any reason is exempt from taxation. ~~The tax may not~~
9 ~~be imposed upon the possession or other beneficial use of buildings owned by public entities and located~~
10 ~~upon public airports. However, privately owned buildings located on public airport property are subject to~~
11 ~~tax. The tax may not be imposed upon the possession or other beneficial use of public lands occupied under~~
12 ~~the terms of mineral, timber, or grazing leases or permits issued by the United States or the state of~~
13 ~~Montana or upon any easement unless the lease, permit, or easement entitles the lessee or permittee to~~
14 ~~exclusive possession of the premises to which the lease, permit, or easement relates.~~ The tax is imposed
15 upon the possession or other beneficial use of an electric transmission line and associated facilities, except
16 that lines and facilities of a design capacity of less than 500 kilovolts are not subject to the tax.

17 (2) The tax may not be imposed upon:

18 (a) the possession or other beneficial use of railroad right-of-way or track owned by the United
19 States or acquired by the state pursuant to Title 60, chapter 11, part 1, as long as the state or the United
20 States retains ownership and the right-of-way or track is used exclusively for rail transportation;

21 ~~(b) The tax may not be imposed on~~ the beneficial use by a person of property held by a port
22 authority, created under Title 7, chapter 14, part 11, or by a port authority owned by the United States or
23 an agency of the United States, unless the port authority provides for the exclusive use of the property by
24 the person;

25 (c) the possession or other beneficial use of public lands occupied under the terms of recreational,
26 mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon
27 any easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession
28 of the premises to which the lease, permit, or easement relates; or

29 (d) the possession or other beneficial use of buildings owned by public entities and located upon
30 public airports. However, privately owned buildings located on public airport property are subject to

1 taxation."

2

3 NEW SECTION. **Section 3. Effective date -- retroactive applicability.** [This act] is effective on
4 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
5 December 31, 1996.

6

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0070, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting recreational leases from the beneficial use property tax; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The department of revenue has not been collecting the privilege tax on this type of recreational property.
2. None of the ski areas in the state has exclusive possession of its premises.

FISCAL IMPACT:

This bill has no impact on state revenues or expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This bill has no impact on local government revenues or expenditures.

Dave Lewis 1-10-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chase Hibbard 1-13-97
CHASE HIBBARD, PRIMARY SPONSOR DATE

Fiscal Note for HB0070, as introduced

HB 70

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2 INTRODUCED BY HIBBARD, ANDERSON, REAM, M. HANSON, WATERMAN, CHRISTIAENS, STANG,

3 RYAN, FOSTER, TROPILA, COLE, GAGE, HARRINGTON, ROSE, CAREY

4 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

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18 commercial purposes; and

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

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11 ~~upon public airports. However, privately owned buildings located on public airport property are subject to~~
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