House BILL NO. 455

INTRODUCED BY Keenan Gillan Hurdle HEAVY RUNNER Schmidt Dowell

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING SMALL BUSINESS REINVESTMENT BY EXEMPTING THE FIRST $25,000 OF MARKET VALUE OF CERTAIN PROPERTY OWNED BY THE TAXPAYER FROM TAXATION; EXEMPTING THE FIRST $25,000 OR LESS OF THE MARKET VALUE OF AGRICULTURAL IMPLEMENTS AND EQUIPMENT FROM PROPERTY TAXATION; EXEMPTING THE FIRST $25,000 OR LESS OF THE MARKET VALUE OF COMMERCIAL ESTABLISHMENT FURNITURE, FIXTURES, AND EQUIPMENT FROM PROPERTY TAXATION; EXEMPTING THE FIRST $25,000 OR LESS OF THE MARKET VALUE OF COMMERCIAL ESTABLISHMENT SUPPLIES AND MATERIALS FROM PROPERTY TAXATION; AMENDING SECTIONS 15-6-138 AND 15-6-201, 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 15-6-138, MCA, is amended to read:

"**15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property includes:

(a) all agricultural implements and equipment <u>that are not exempt under 15-6-201(1)(x)</u>;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all manufacturing machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all trailers and semitrailers, including those prorated under 15-24-102, except those subject to taxation under 61-3-504(2) or exempt under 15-6-201(1)(v);

(e) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class;

(f) buses and trucks having a rated capacity of more than 1 ton, including those prorated under 15-24-102;

(g) truck toppers weighing more than 300 pounds;

(h) furniture, fixtures, and equipment <u>that are not exempt under 15-6-201(1)(y)</u>, except that specifically included in another class, used in commercial establishments as defined in this section;

(i) x-ray and medical and dental equipment;

(j) citizens' band radios and mobile telephones;

(k) radio and television broadcasting and transmitting equipment;

(l) cable television systems;

(m) coal and ore haulers;

(n) theater projectors and sound equipment; and

(o) all other property not included in any other class in this part, except that property subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at:

~~(a) 9% of its market value for tax years ending on or before December 31, 1995;~~

~~(b) 8% of its market value for tax year 1996;~~

~~(c)~~<u>(a)</u> 7% of its market value for tax year 1997; and

~~(d)~~<u>(b)</u> 6% of its market value for tax years beginning after December 31, 1997."

Section 2. 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 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 public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

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

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

(e) property owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is 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 with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, the mentally ill, or the vocationally handicapped as defined in 18-5-101 and that is not operated for gain or profit and property owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that 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 that is 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) timber as defined in 15-44-102;

(v) all trailers and semitrailers that have a licensed gross weight of 26,000 pounds or more or that are registered through a proportional registration agreement under 61-3-721. 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.

(w) all vehicles registered under 61-3-456~~.~~;

(x) the first $25,000 or less of market value of agricultural implements and equipment owned by the taxpayer;

(y) the first $25,000 or less of market value of furniture, fixtures, and equipment used in a commercial establishment, as defined in 15-6-138(3), classified for taxation under 15-6-138(1)(h), and owned by the taxpayer;

(z) the first $25,000 or less of market value of supplies and materials used in a commercial establishment, as defined in 15-6-138(3), classified for taxation under 15-6-138(1), and owned by the taxpayer.

(2) (a) For the purposes of subsection (1)(e), 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 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."

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

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0455, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act encouraging small business reinvestment by exempting the first $25,000 of market value of certain property owned by the taxpayer from taxation; exempting the first $25,000 or less of the market value of agricultural implements and equipment from property taxation; exempting the first $25,000 or less of the market value of commercial establishment furniture, fixtures, and equipment from property taxation; exempting the first $25,000 or less of the market value of commercial establishment supplies and materials from property taxation; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:
1. The proposal applies retroactively to tax years beginning after December 31, 1996.
2. The taxable valuation rate for agricultural implements; furniture, fixtures and equipment; and supplies and materials will be 7% in 1997 and 6% in 1998 and future years.
3. The loss in taxable value due to exempting the first $25,000 market value each of agricultural implements; furniture, fixtures and equipment; and supplies and materials would be $38.7 million in tax year 1997 and $33.1 million in tax year 1998.
4. The loss in taxable value due to exempting the first $25,000 market value each of agricultural implements; furniture, fixtures and equipment; and supplies and materials on property for which the 9 mill state assumption of welfare is levied is $11.4 million in tax year 1997 and $9.8 million in tax year 1998.
5. The loss in taxable value due to exempting the first $25,000 market value each of agricultural implements, furniture, fixtures and equipment and supplies and materials on property for which the 1.5 vo-tech mill is levied is $10.0 million in tax year 1997 and $8.5 million in tax year 1998.
6. The taxable value losses for tax year 1999 assessments would be the same as for tax year 1998 assessments.
7. Thirty eight percent of personal property taxes are paid in FY97 and 62% in FY98 for tax year 1997 assessments. Thirty eight percent of personal property taxes are paid in FY98 and 62% in FY99 for tax year 1998 assessments.
8. The estimates contained in this note include all furniture and fixtures and all supplies and materials; not just those of commercial establishments under the proposal. As a result, the loss in taxable value and corresponding loss of taxes will be slightly overstated.
9. The $25,000 exemptions for each exemption category of property under the proposal were given per taxpayer *location*. All expenditures are based on the assumption that the exemptions are per taxpayer *location*.
10. The 1996 statewide average mills on personal property for county governments is 75.67; for local schools is 161.31; and for cities/towns is 100.02.
11. The decrease in market value and the corresponding decrease in taxable value for class 8 property under the proposal would increase the costs of SB417 personal property reimbursements.
12. For purposes of the fiscal note the department will not monitor whether taxpayer's individual pieces of business equipment qualify as "commercial establishment".

FISCAL IMPACT:

Expenditures:
The proposal would require some programming changes to the Master Ownership Database System (MODS). The cost of this would be minimal.

(Fiscal Impact - continued page 2)

Dave Lewis 2-12-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

This fiscal note will be amended as it is incorrect

Billie Krenzler
BILLIE KRENZLER, PRIMARY SPONSOR DATE

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FISCAL IMPACT: (continued)

Revenues:
In FY97 state levy revenue would be reduced a total of $1,500,000 - $1,456,230 for the 101 mills, $38,249 for the 9 mills state assumption of welfare and $5,521 for the the 1.5 vo-tech mills.

	FY98 Difference	FY99 Difference
101 Mills	(3,693,000)	(3,347,000)
9 Mill Assumption	(97,000)	(88,000)
1.5 Vo-tech	(14,000)	(13,000)
Total	(3,804,000)	(3,448,000)

Under SB417, reimbursements to taxing jurisdictions that experience an increase in class 8 market value, relative to the 1995 level, are to be reduced relative to what they would be in the absence of any growth. To the extent that the loss in market value of class 8 property under the proposal offsets an increase in market value due to growth, the reimbursement to a taxing jurisdiction would be increased. Thus the cost of the SB417 reimbursement program would increase. The extent of this is not known.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
There would be a loss in FY97 to local government revenues for property taxes paid on personal property not attached to real property. This is due to the retroactive date of the proposal. The property taxes for this group is due 30 days from the date of notice of taxes due and is based on the previous year's mill levies. Since these mills are already set local governments would be unable to adjust for this loss. The loss in revenue for FY97 would be $112,000 to county governments, $239,000 to local schools, and $148,000 to cities/towns.

There could be losses to local governments in FY98 and FY99 to the extent that they could not adjust their mill levies to make up for the loss in taxable value due to the proposal.

TECHNICAL NOTES:
The property taxes on personal property not attached to real property may already have been paid for 1997 by the time the proposal is implemented. For taxpayers qualifying for the proposed exemption, taxes would have to be adjusted and may involve refunds.

The proposal would delay FY97 SB417 reimbursements due on tax year 1997 valuations, to FY98. The estimated amount of these reimbursements is $4.0 million.

The language is unclear as to the requirement of the department to determine if individual pieces of a taxpayer's business equipment qualify as "commercial establishment".