BNSF Railway Company

Montana Taxation of Railroads
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Legislative History

- **Prior to 1997 - History of disputes and litigation**
  - **County / School District Budgets**
    - **Short falls**
    - **Uncertainty**
- **1997 – 1998 - BNSF and DOR applied the formula on "experimental basis"**
- **1999 - Legislature codified Railroad Formula (MCA 15-23-205) to provide long term solution**

Predictability and Stability

- **Rep. Bob Story sponsored HB 669. At the committee hearing, he explained how the bill would improve tax administration and provide a more stable source of tax revenue for local taxing jurisdictions**

- **DOR stated, "HB 669 provides stability for both government and taxpayers and predictability regarding the tax base and the taxes paid**

- **"will bring about predictability, which important from the taxpayers' perspective, as well as from the state perspective and local government's perspective...formula is fair and workable and understandable"**

Objective

- **Three objective verifiable variables**
    - **Income**
    - **Gross Profit**
    - **Investment**
- **All inputs into Formula are based on public (audited) documents or Third Party information**
    - **R-1 report to the STB**
    - **STB Capitalization Study**

Stability

- **Formula uses 2 and 5 year averages to moderate decreases and increases to value**

- **Senator Depratu, formula "will also help level out some of the spikes, and make revenue more of a wave…it helps both the railroads and the local governments."**

Flexibility

- **Formula contains provision for adjustment for unusual and infrequent material items**

- **"The department shall take into account extenuating circumstances to adjust the assessed value of railroad property" (MCA 15-23-205 (6))**

- **"Extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary business operations, that are not expected to recur frequently and not normally considered in the evaluation of operating results"**

- **Events such as "writeoffs, writedowns, and changes in accounting methods or practices"**

BNSF

Section 306

- Section 306 of the Federal 4-R Act was enacted to ensure states do not unreasonably burden and discriminate against interstate railroads by imposing discriminatory taxes.

- Since enactment of the MT Railroad Formula there have been no property tax disputes under the 4-R Act.

- Formula applies fair increases or decreases to BNSF's value based upon objective changes to BNSF's financial and operating results.

Formula Mechanics

- Start with "Base Value" (Prior year system value)
- Base Value x "Value Change Factor"
  - Change Factor is a sum of 3 weighted factors:
    - 50% Income (Change in Earnings/Cap Rate)
    - 25% Gross Profit Change Factor
    - 25% Investment (Year over Year Change)
  - Base Value x Value Change Factor = Current Value

Formula Mechanics

- Current Year Value x MT Allocation = MT Taxable Value

- Allocation Factor is the average of 5 ratios:
  - MT/System Track Miles
  - MT/System Revenue Ton Miles
  - MT/System Investment
  - MT/System Operating Revenue
  - MT/System Car and Locomotive Miles

R Factor

- MCA 15-6-145

- Calculation is required under 4-R Act

- Rate reflects average composite rate applied to all commercial property in the state