

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on January 17, 1989,  
at 9:00 a.m.

#### ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: None

#### HEARING ON HOUSE BILL 145

Presentation and Opening Statement by Sponsor: Rep. Jack Ramirez, District 87, stated HB 145 primarily corrects a technical problem with the way in which the current law is written. The federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) applies to the taxing of airline property and the Four Rs Act applies to taxing railroad property. There was concern in Congress that airlines and railroads were being overtaxed by the states. These laws were passed to ensure equitable treatment for the airlines and railroads in respect to state taxation. TEFRA essentially states that airline property must be taxed the same as any other commercial property. In order to do this in Montana since there are numerous classifications of taxation rates, it was necessary to take all the other commercial and industrial property and apply a formula to determine the average rate for airline property. Airlines are in class 17 and railroads are in class 15 of the property tax. Yet the law states that they are to be taxed the same. This cannot be done since the formula for railroads is determined by looking at all but railroad property, calculating the average and determining the appropriate rate. The airline rate has to include the railroad property since all but the airline property has to be considered. The airlines need to have their own rate

of taxation. The formula proposed in HB 145 takes the average rate for all other commercial and industrial property except airline property. This must be done in order to ensure that the airline property is taxed equitably with all other commercial and industrial property.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None.

Questions From Committee Members: Rep. Ellison asked what the difference would be in applying this formula. Steve Bender of the Department of Revenue replied stating there is a .5% difference in the rate amounting to \$10 to \$20 thousand statewide. Rep. Ramirez stated that the importance lies in the fact that personal property taxes are reduced for everyone else. The rate will go down by virtue of the formula. He said there is not a great difference now but there will be in the future.

Rep. Raney asked Rep. Ramirez if the Sales Assessment Ratio Bill from last session was used. Rep. Ramirez replied this was not the case. The sales assessment ratio used in this bill is an entirely different ratio specifically to comply with the Four Rs Act and TEFRA. The formulas are the same for the airlines and the railroads except they exempt each other. Rep. Raney stated since there are so few sales of railroads and airlines, how can this ratio be used. Rep. Ramirez replied that the sales assessment study is not used for railroads and airlines but for all other types of property. Rep. Raney asked if any airlines were involved but Air Link. Rep. Ramirez answered he thought personal property tax was assessed on some of Air Link's property but mostly against other airlines. Rep. Raney stated this was probably aimed at Montana Air Link at Billings. Rep. Ramirez stated he was not sure and asked for a response from the DOR. Steve Bender replied that all airlines operating in the state are under Class 17 property tax. It does impact all the major cities because they have the airlines and the property. Rep. Raney asked if the vast majority of the

tax was in Billings. Rep. Ramirez stated he did not think this was the case. A portion of the value is allocated to the entire state.

Closing by Sponsor: Rep. Ramirez thanked the committee and made no further comments.

DISPOSITION OF HOUSE BILL 145

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 95

Presentation and Opening Statement by Sponsor: Rep. Robert Pavlovich stated HB 95 is a bill to exempt state lottery prizes from state income tax. (Exhibits 1 and 2). He stated 17 states do not tax their lottery prizes. He stated the revenue for the state would increase from the lottery if people did not have to pay income tax on their winnings.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

Vern Vertleson, Concerned Citizen  
Ken Nortveldt, Director, Department of Revenue  
Bill Campbell, Montana Education Association

Testimony:

Vern Vertleson spoke in opposition to the bill because it is another bill to reduce revenue without knowing what the exact impact would be. Montana currently has a fiscal crises and this would cut the income already coming in. To remove tax because people are poor or for business that can supply more jobs is valid but this is discriminatory in favor of one group. He stated he did not believe this would increase the number of lottery

players.

Ken Nordtveldt stated he did not consider the lottery a valid area for tax exemption and this would be sending the wrong message to the people of Montana. A tax break for unearned income is not a fair or equitable avenue to pursue.

Bill Campbell spoke in opposition to the bill stating it did not make sense to continually reduce the tax base without knowing the impact or what the revenue needs may be.

Questions From Committee Members: None

Closing by Sponsor: Rep. Pavlovich stated he believed this will generate more revenue and urged a DO PASS for the bill.

#### DISPOSITION OF HOUSE BILL 95

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

#### EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 83:

MOTION: DO PASS by Rep. Ellison. Motion carried by unanimous voice vote.

DISPOSITION OF HOUSE BILL 90:

DISCUSSION: Rep. Raney requested that an amendment be drafted to eliminate Section 16. Dave Bohyer stated there were other elements included in that section. Rep. Raney stated he wished to amend the bill to exempt all tac equipment. Dave Bohyer replied that personal property was listed in Section 16. Ken Nordtveldt of the Department of Revenue stated he recommended an amendment to eliminate tac equipment without distinction between recreation and business.

MOTION: DO PASS by Rep. Ellison. Rep. Raney made the motion to DO PASS on the amendment.

MOTION: DO PASS by Rep. Ellison on the amendment to exempt all tac equipment. Motion carried unanimously by voice vote.

The bill had a previous DO PASS motion. Motion carried by voice vote of 17 to 1.

DISPOSITION OF HOUSE BILL 60:

MOTION: Rep. Rehberg proposed amendments. (Exhibit 3). Rep. Ream moved to DO PASS on the bill. Rep. Rehberg moved to DO PASS on the amendments.

DISCUSSION: Rep. Rehberg said if the assessors are committed to continuing education this is fine but no one else should pay for it. He said the assessors or their particular county should pay. The fiscal note states the state pays for all of the schooling plus 100% of their salary while attending. His amendment states the person or their county pays the expenses.

Rep. Giacometto stated this is continuing education, not the certification. They are learning new rules or laws passed by the past legislature.

Chairman Harrington said this school cannot be separated from other schools. The assessors attend other schools as well.

Rep. Rehberg stated this is continuing education and certification of qualifications for the position. The amendment covers only the certification area. Why should the state pay for this.

Rep. Stang stated that Section 3 covers the continuing education. This states the department will charge each member for the certification training or continuing education. The amendment would have to be changed.

Rep. Rehberg stated there may be a drafting problem in the amendment but this was intended to address those assessors who are currently sitting assessors. This is not intended to cover anything but certification.

Rep. Gilbert stated he has a problem with the amendment since it could apply to any area of training. The laws do not require qualifications for certain jobs. This is to create a better qualified assessor once they are elected.

Chairman Harrington spoke in opposition to the amendment. He said the assessors are asking for this themselves and he does not believe they should have to pay.

After much continuing discussion among the committee members as to who should pay for the schooling, the chairman called for the vote on the amendment. Failed to pass on a voice vote.

Returning to the bill, Rep. Driscoll moved to strike Section 5 in its entirety leaving the present law as it is in stating that assessors shall go to continuing education classes. Strike line 14, page 5 from the bill and this requirement stays in the law.

MOTION: Rep. Driscoll moved to DO PASS on his amendment. Motion carried by unanimous voice vote.

MOTION: Rep. Koehnke moved amend the 36 month time limit to 25 months. Rep. Hanson supported the amendment. The amendment PASSED by voice vote.

MOTION: Rep. Giacometto moved to eliminate Subsection 1, Section 1 to remove the high school graduate requirement for assessors. Amendment PASSED on a roll call vote 10 to 8.

MOTION: Rep. Raney moved to amend page 3, line 8. Between mileage and per diem, insert "and". Strike "and salary".

Chairman Harrington questioned striking salary saying this could cause confusion as to whether or not the salary would be paid while attending class.

Rep. Driscoll stated that if a person is elected and even though they never come to work, they will still be paid until they are impeached.

The amendment PASSED by unanimous voice vote.

Rep. Gilbert asked a question regarding Page 4, Section 3, Line 25, for Dave Bohyer. He stated he thought this should be Section 2 instead of 3. Mr. Bohyer responded there were two areas that needed technical amendments. This was one of them and also Page 2, Line 2, Section 3 should be Subsection 2. Rep. Gilbert moved to DO PASS on this amendment. The motion was carried by unanimous voice vote.

MOTION: Rep. Hoffman proposed an amendment to place an effective date of January 1, 1991 on the bill that includes assessors already elected to their term. Rep. Raney objected to changing the rules after people have been elected. Rep. Hoffman stated this could be for the duration of office. Dave Bohyer stated he could write an amendment that states this applies to any assessor who term commences following

the effective date of this act. Rep. Hoffman moved to accept this amendment. Amendment PASSED by unanimous voice vote.

Chairman Harrington called for the vote on the bill. HB 50 DO PASS AS AMENDED by roll call vote of 15 to 3.

DISPOSITION OF HOUSE BILL 145:

MOTION: DO PASS by Rep. Hoffman. PASSED by unanimous voice vote.

ADJOURNMENT

Adjournment At: 10:22 a.m.

  
\_\_\_\_\_  
REP. DAN HARRINGTON, Chairman

DH/lj

1415.min

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 17, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		



STANDING COMMITTEE REPORT

January 17, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE BILL 83 (first reading copy -- white) do pass.

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

Dan Harrington, Chairman

10:42 am  
1/18/89  
ja

STANDING COMMITTEE REPORT

January 18, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE BILL 90 (first reading copy -- white) do pass as amended .

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

  
Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "USED SOLELY FOR RECREATIONAL PURPOSES"

2. Page 1, lines 13 through 16.

Following: "includes" on line 13

Strike: the remainder of line 13 through "(b)" on line 16

3. Page 1, line 16.

Strike: "other"

4. Page 4, lines 23 through 25.

Following: "equipment" on line 23

Strike: the remainder of line 23 through "purposes" on line 25

10:42 am  
1/18/89  
ja

STANDING COMMITTEE REPORT

January 18, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that HOUSE BILL 60 (first reading copy -- white) do pass as amended .

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

Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "ASSESSORS;"

Strike: "AND"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "15-1-202"

Strike: "AND"

2. Title, line 9.

Strike: "15-8-103"

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE"

3. Page 1, lines 14 through 21.

Following: "7-4-2201," on line 14

Strike: the remainder of line 14 through "Each" on line 21

Insert: "each"

4. Page 2, line 2.

Following: "3"

Insert: "(2)"

5. Page 2, line 5.

Strike: "(3)"

Insert: "(2)"

6. Page 2, line 7.

Strike: "36"

Insert: "24"

7. Page 3, line 8.

January 18, 1989  
Page 2 of 2

Following: "mileage"  
Strike: ", "  
Insert: "and"  
Following: "diem"  
Strike: ", and salary"  
Following: "assessor"  
Strike: "attending"

8. Page 3, line 9.  
Strike: "the mileage and per diem of"

9. Page 4, line 25.  
Strike: "2"  
Insert: "3"

10. Page 5, lines 6 through 14.  
Strike: section 5 in its entirety  
Renumber: subsequent sections

11. Page 5.  
Following: section 7  
Insert: "NEW SECTION. Section 7. Effective date --  
applicability. This act is effective January 1, 1991, and  
applies to an assessor whose term of office begins on or  
after January 1, 1991."

1/18/89  
10:42 am  
ja

STANDING COMMITTEE REPORT

January 17, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE  
BILL 145 (first reading copy -- white) do pass.

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

*Dan Harrington*  
Dan Harrington, Chairman

88L-23

EXHIBIT 1  
DATE 11/17/89  
HB 95

*Rep. Pavlovich*

November 18, 1988

Representative Bob Pavlovich  
1375 Harrison Ave.  
Butte, MT 59701

Dear Representative Pavlovich:

Enclosed is a memorandum discussing your request for information concerning the taxation of Lottery prize winnings. If you need additional information or have any questions, please call.

Sincerely,

Jim Pellegrini  
Deputy Legislative Auditor  
Performance Audits

Enclosure

*11/18/88*

EXHIBIT 1, pg. 2  
DATE 11/17/89  
HB 95  
*Rep. Parlovich*

Office of the Legislative Auditor

Taxation of Lottery Winnings  
Legislative Request (88L-23)

Currently the Montana Lottery does not withhold any state taxes on lottery winnings. The Lottery does withhold 20 percent of prize winnings of \$10,000 and over for federal tax purposes. According to the Internal Revenue Service, state conducted lotteries must file form W2-G for every person to whom winnings of \$600 or more are paid. There would be no IRS record for those individuals receiving winnings less than \$600.

Assuming winners of less than \$600 would not report their winnings and using the IRS criteria for reporting gambling winnings, we determined total prize payments of \$600 or more was \$2,199,268 for fiscal year 1987-88 (this includes payments for June 24, 1987 to June 30, 1987). Using an average state withholding tax rate of 6 percent, obtained from the Income and Miscellaneous Tax Division, the state will receive at a minimum \$131,956 in income tax receipts ( $\$2,199,268 \times .06$ ).

If legislation were passed making lottery winnings exempt from state income taxes, the state would lose (at least) the previously computed amount of \$131,956 in income tax revenues. In accordance with section 15-1-501, MCA, which specifies how income tax revenues will be distributed, we estimate the revenue distributions to the following funds will decrease by the following amounts:

General Fund -	\$ 76,798
Debt Service Account For Long Range Building Programs -	13,196
State Equalization Aid to Public Schools of Montana -	<u>41,962</u>
Total Income Tax Revenue Decrease -	\$131,956

Note: The total amount of prize winnings paid of \$600 or more will vary depending on the prize structures for Lottery Instant Games. For example, the current Lottery Instant Game, Stocking Stuffer, only has a top cash prize of \$100. Consequently, the Lottery will not be required to send out W2-G forms for lottery winners. Tax revenues will vary depending on the prize structures on Instant Games.



EXHIBIT 2  
DATE 1/17/89  
HB 95  
*Rep. Pavlovich*

January 13, 1989

To: Representative Pavlovich  
From: Ron Duda/Public Information

Subject: Lottery prizes exempt from state income tax in other  
lottery states

- 1) The majority of lottery states exempt lottery prizes from state income taxes in this country.
- 2) Lottery players favor exempting lottery prizes from state income taxes. This complaint is heard often.
- 3) Lottery players feel they are being taxed twice. Net profit goes to the state and then each person must pay again with income taxes.
- 4) Exempting lottery prizes from state taxes may make the Montana Lottery product more competitive with the Canadian lottery tickets. Canada does exempt winnings.



EXHIBIT 2, pg. 2  
 DATE 1/17/89  
 HB 95  
*Rep. Parlovich*

LOTTERIES IN THE UNITED STATES  
 January 1989  
 Based on 1986 figures

		<u>Began</u>	<u>Population (In thousands)</u>
	1) California	1985	27,663
	2) New York	1967	17,825
*	3) Florida	1988	12,023
	4) Pennsylvania	1972	11,936
	5) Illinois	1974	11,582
	6) Ohio	1973	10,784
	7) Michigan	1972	9,200
	8) New Jersey	1970	7,627
*	9) Virginia	1988	5,904
	10) Massachusetts	1972	5,855
*	11) Indiana		5,531
	12) Missouri	1986	5,103
*	13) Wisconsin	1988	4,807
	14) Washington	1982	4,538
	15) Maryland	1972	4,535
*	16) Minnesota		4,246
*	17) Kentucky		3,727
	18) Arizona	1981	3,386
	19) Colorado	1983	3,296
	20) Connecticut	1972	3,211
	21) Iowa	1985	2,834
	22) Oregon	1985	2,724
*	23) Kansas	1987	2,476
	24) West Virginia	1986	1,897
	25) Maine	1975	1,172
	26) New Hampshire	1964	1,057
*	27) Idaho		998
	28) Rhode Island	1973	986
	29) Montana (24th to begin)	1987	809
*	30) South Dakota	1987	709
	31) Delaware	1974	644
	32) DC	1982	622
	33) Vermont	1977	548

\* States which began after the Montana Lottery start-up of June 24, 1987:

25th South Dakota	September 29, 1987
26th Kansas	November 12, 1987
27th Florida	January 12, 1988
28th Wisconsin	September 14, 1988
29th Virginia	September 20, 1988
30th Kentucky	(Voter approved Nov 88)
31st Idaho	"
32nd Indiana	"
33rd Minnesota	"

EXHIBIT 2, pg. 3  
DATE 1/17/89  
HB 95  
*Rep. Parlovich*

MONTANA LOTTERY

Big Winners June 24, 1987-Dec 31, 1988

BIG SPIN WINNINGS \$1,769,088

300 winners  
Average win \$5,000  
Sub total \$1,516,000

4 Jackpot winners  
    Rose Ludwig, Laurel \$153,750 for 20 years  
    Judi Adams, Havre \$31,250 for 20 years  
    Robert Lynch, Epping, ND \$20,588 for 17 years  
    Keith Dunn, Billings \$47,500 for 20 years  
Sub total \$253,088

INSTANT TICKET WINNINGS

Total over \$600 (\$600-\$21,000) \$1,370,680  
Number of Winners 443  
Average win \$4,000

Total \$600-\$5,000 \$377,280  
Number of Winners 357  
Average win \$1,000

Total \$5,001-\$21,000 \$993,400  
Number of winners 86  
Average win \$12,000

Note: 41 residents from out-of-state won a total of  
\$88,000 (an average of \$2,000 each)

TOTAL \$3,139,768

The following 17 lotteries exempt lottery prizes:

- California
- Connecticut
- Delaware
- Florida (has no state income tax)
- Maine
- Michigan
- Missouri
- New Hampshire
- New Jersey
- Oregon
- Pennsylvania
- Rhode Island
- South Dakota (has no state income tax)
- Vermont
- Washington DC (exempt from city tax)
- Washington State (has no state income tax)
- West Virginia

The following 12 lotteries do not exempt lottery prizes:

- |               |                           |                             |
|---------------|---------------------------|-----------------------------|
| Arizona       | Withhold                  | 4% on prizes over \$5,000   |
| Colorado      | Withhold                  | 4% on prizes over \$5,000   |
| Illinois      | Withhold                  | 2.5% on prizes over \$1,000 |
| Iowa          | Withhold                  | 5% on prizes over \$ 600    |
| Kansas        | Withhold                  | 4% on prizes over \$5,000   |
| Massachusetts | Withhold                  | 5% on prizes over \$5,000   |
| Maryland      | No Withholding required-- | report prizes over \$ 600   |
| Montana       | No Withholding required-- | report prizes over \$ 600   |
| New York      | No Withholding required-- | report no prizes            |
| Ohio          | No Withholding required-- | report no prizes            |
| Virginia      | Withhold                  | 4% on prizes over \$5,000   |
| Wisconsin     | Withhold                  | 6.9% on prizes over \$5,000 |

EXHIBIT 3  
DATE 1/17/89  
HB 60  
*Rep. Rehberg*

Amendments to House Bill No. 60  
First Reading Copy

Requested by Rep. Dennis Rehberg  
For the Committee on Taxation

Prepared by Dave Bohyer  
January 12, 1989

1. Page 3; lines 7 through 10.

Following: "borne by the" on line 7

Strike: the remainder of line 7 through line 10

Insert: "assessors, assessors-elect, and others participating in the certification training or continuing education. The department shall charge each person participating in the certification training or continuing education a proportionate share of the cost of conducting the training or education."

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 95

DATE January 17, 1989

SPONSOR B. Pavolich

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Rob Smith	Dept. of Justice		
Row DUDA	Montana Lottery		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

TAXATION

COMMITTEE

DATE 1/17/89 BILL NO. HB 60 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Cohen, Ben		✓
Driscoll, Jerry	✓	
Elliott, Jim		✓
Ellison, Orval		✓
Giacometto, Leo	✓	
Gilbert, Bob	✓	
Good, Susan	✓	
Hanson, Marian	✓	
Hoffman, Robert	✓	
Koehnke, Francis	✓	
O'Keefe, Mark	✓	
Patterson, John	✓	
Raney, Bob		✓
Ream, Bob		✓
Rehberg, Dennis		✓
Schye, Ted		✓
Stang, Barry "Spook"		✓
Harrington, Dan, Chairman	✓	

TALLY

La Hans John  
Secretary

10 8  
Dan Harrington  
Chairman

MOTION: DO PASS ON AMENDMENT by Rep. Giacometto.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE

TAXATION

COMMITTEE

DATE 1/17/89 BILL NO. HB 60 NUMBER \_\_\_\_\_

NAME	AYE	NAY
Cohen, Ben	✓	
Driscoll, Jerry	✓	
Elliott, Jim	✓	
Ellison, Orval		✓
Giacometto, Leo		
Gilbert, Bob	✓	
Good, Susan	✓	
Hanson, Marian	✓	
Hoffman, Robert	✓	
Koehnke, Francis	✓	
O'Keefe, Mark		✓
Patterson, John	✓	
Raney, Bob	✓	
Ream, Bob	✓	
Rehberg, Dennis		✓
Schye, Ted		
Stang, Barry "Spook"	✓	
Harrington, Dan, Chairman	✓	

TALLY

La Haro John  
Secretary

15 / 3  
Dan Harrington  
Chairman

MOTION: DO PASS AS AMENDED on HB 60 .

\_\_\_\_\_  
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\_\_\_\_\_