HOUSE BILL 95

Introduced by Pavlovich, et al.

1/07	Introduced
1/09	Referred to Taxation
1/10	Fiscal Note Requested
1/14	Fiscal Note Received
1/16	Fiscal Note Printed
1/17	Hearing
1/18	Committee Report--Bill Not Passed
1/19	Adverse Committee Report Adopted

House BILL NO. 95

INTRODUCED BY Cartwright Daily Whalen Menahan Bick Harrington McCormick O'Connell Behnke Grady Driscoll Phillips Strizich

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LOTTERY PRIZES FROM THE STATE INCOME TAX; AND AMENDING SECTIONS 15-30-112 AND 23-5-1022, MCA."

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

Section 1. Section 15-30-112, MCA, is amended to read:

"15-30-112. **Exemptions.** (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) <u>and (9)</u> shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the

close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed

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20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $800; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term

"student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 as amended by section 4, Chapter 548, Laws of 1981.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall

multiply all the exemptions provided in this section unadjusted by subsection (7) by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.

<u>(9) The dollar amount, or value expressed in dollars, of a prize won in the Montana state lottery and included as gross income for federal income tax purposes shall be allowed as a deduction in computing taxable income.</u>"

Section 2. Section 23-5-1022, MCA, is amended to read:

"**23-5-1022. Drawings for and payment of prizes -- unclaimed prizes.** (1) All drawings must be held in public. The selection of winning tickets may not be performed by an employee of the lottery or by a member of the commission. All drawings must be witnessed by a professional staff employee of the legislative auditor's office, and all lottery drawing equipment used in public drawings to select winning prizes or participants for prizes must be examined by the director's staff and a professional staff employee of the legislative auditor's office prior to and after each public drawing.

(2) The commission may provide for the immediate payment of prizes by the ticket or chance sales agent who sold the winning ticket or chance whenever the amount of the

prize is less than an amount set by commission rule. Payment may not be made directly by a machine or device or by a computer terminal.

(3) Prizes over $100,000 may in the discretion of the commission be paid either in one lump sum or in equal yearly installments without interest over a period of not more than 20 years, except that each installment payment must be at least $20,000.

(4) Prizes not claimed within 6 months are forfeited and must be paid into the state lottery fund. No interest is due on a prize when a claim is delayed but made within 6 months.

(5) The right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order.

<u>(6) Prizes are exempt from the state income tax.</u>"

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for HB095 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to exempt lottery prizes from the state income tax.

ASSUMPTIONS:

1. Individual income tax collections will be $239,124,000 in FY90 and $254,428,000 in FY91 (REAC).
2. Total lottery revenue will be $13,500,000 in FY90 and $13,500,000 in FY91 (Department of Commerce)
3. The lottery will pay out 45% of total revenue in prizes.
4. All lottery winnings are currently being reported, and are subject to an average marginal tax rate of 5.6 percent.
5. The revenue loss shown in the next section represents the maximum revenue loss from this bill, given the assumption regarding total lottery revenue (but see the Technical Note section of this fiscal note).
6. The proposed legislation will require adding another line to the individual income tax form (see Expenditure Impact below).
7. The effective date of the bill is October 1, 1989; exemption applies to winnings received after that date. The fiscal impact in FY90 is 25% of a full year's impact.

Ray Shackleford 1/13/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

1/14/89
ROBERT J. PAVLOVICH, PRIMARY SPONSOR DATE
Fiscal Note for HB095, as introduced

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FISCAL IMPACT:

Revenue Impact:

	FY '90			FY '91		
Individual	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Income Tax	$239,124,000	$239,039,000	($85,000)	$254,428,000	$254,088,000	($340,000)
Fund Information:						
General Fund	$139,170,168	$139,120,698	($49,470)	$148,077,096	$147,879,216	($197,880)
Foundation Program	76,041,432	76,014,402	(27,030)	80,908,104	80,799,984	(108,120)
Sinking Fund	23,912,400	23,903,900	(8,500)	25,442,800	25,408,800	(34,000)
Total	$239,124,000	$239,039,000	($85,000)	$254,428,000	$254,088,000	($340,000)
Expenditure Impact:						
Personal Services	$ 0	$ 12,140	$ 12,140	$ 0	$ 2,150	$ 2,150
Operating Expense	0	5,290	5,290	0	770	770
Total	$ 0	$ 17,430	$ 17,430	$ 0	$ 2,920	$ 2,920
Fund Information:						
General Fund	$ 0	$ 17,430	$ 17,430	$ 0	$ 2,920	$ 2,920

TECHNICAL NOTE:

Revenue Impact:

The revenue impact shown above assumes that all winnings would be reported. However, under current rules and statutes, lottery personnel report only winnings in excess of $600 to the IRS and Department of Revenue. To the extent that individuals are not currently reporting winnings less than $600 voluntarily, the revenue reduction shown previously would be smaller. Today, about 65% of all winnings are for prizes of less than $600. If none of these winnings are reported, then the revenue reduction in FY91 would be closer to $132,000.

The bill has no effective date, therefore only winnings received after October 1, 1989 would be exempt from taxation.

Expenditure Impact:

The provision of law that would exempt lottery winnings amends Section 15-30-112, MCA in the introduced bill. This section of law pertains to the personal exemptions allowed the taxpayer and dependents. The proposed exemption for lottery winnings would more appropriately be placed in Section 15-30-111, MCA, which defines adjusted gross income (and provides for other exemptions of income).

Also, placing the proposed exemption in Section 15-30-111, MCA would eliminate the need for adding another line on the income tax form, as the exemption for lottery winnings could be reported on the existing line for deductions of "other" income. There would be no need for any additional expenditure if the proposed exemption were to amend Section 15-30-111, MCA.

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