

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF AIRCRAFT THAT CARRY
5 PROPERTY; REMOVING FROM CLASS TWELVE AIRCRAFT THAT CARRY PROPERTY; REQUIRING A FEE
6 IN LIEU OF TAX FOR AIRCRAFT THAT CARRY PROPERTY; AMENDING SECTIONS 15-6-145, 15-23-101,
7 15-23-401, 15-23-402, 67-3-102, AND 67-3-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND
8 AN APPLICABILITY DATE."

9

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

11

12 **Section 1.** Section 15-6-145, MCA, is amended to read:

13 **"15-6-145. Class twelve property -- description -- taxable percentage.** (1) Class twelve property
14 includes all property of a railroad car company as defined in 15-23-211, all railroad transportation property as
15 described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and
16 all ~~airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read~~
17 ~~on January 1, 1986~~ of a scheduled passenger airline described in 14 CFR, part 121.

18 (2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve property
19 is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%,
20 whichever is less.

21 (3) R = A/B where:

22 (a) A is the total statewide taxable value of all commercial property, except class twelve property, as
23 commercial property is described in 15-1-101(1)(d); and

24 (b) B is the total statewide market value of all commercial property, except class twelve property, as
25 commercial property is described in 15-1-101(1)(d).

26 (4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the
27 department shall conduct a sales assessment ratio study of all commercial and industrial real property and
28 improvements. The study must be based on:

29 (i) assessments of such property as of January 1 of the year for which the study is being conducted; and

30 (ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same



1 taxable year or from the immediately preceding taxable year, but only if a sufficient number of certificates is
 2 unavailable from the current taxable year to provide a statistically valid sample.

3 (b) The department shall determine the value-weighted mean sales assessment ratio "M" for all such
 4 property and reduce the taxable value of property described in subsection (4) only, by multiplying the total
 5 statewide taxable value of property described in subsection (4)(a) by "M" prior to calculating "A" in subsection
 6 (3)(a).

7 (c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each
 8 subsequent tax year to equalize the railroad taxable values.

9 (5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976,
 10 as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally
 11 applicable to commercial and industrial property, except class twelve property, as commercial property is defined
 12 in 15-1-101(1)(d)."

13

14 **Section 2.** Section 15-23-101, MCA, is amended to read:

15 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

16 (1) the railroad transportation property of railroads and railroad car companies operating in more than
 17 one county in the state or more than one state;

18 (2) property owned by a corporation or other person operating a single and continuous property operated
 19 in more than one county or more than one state including but not limited to:

20 (a) telegraph, telephone, microwave, and electric power or transmission lines;

21 (b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service
 22 commission or the federal energy regulatory commission;

23 (c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C.
 24 15102(2);

25 (d) natural gas distribution utilities;

26 (e) the gas gathering facilities specified in 15-6-138(6);

27 (f) canals, ditches, flumes, or like properties; and

28 (g) if congress passes legislation that allows the state to tax property owned by an agency created by
 29 congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency
 30 created by congress to transmit or distribute electrical energy produced at privately owned generating facilities,

- 1 not including rural electric cooperatives;
- 2 (3) all property of a scheduled airlines passenger airline described in 14 CFR, part 121;
- 3 (4) the net proceeds of mines, except bentonite mines;
- 4 (5) the gross proceeds of coal mines; and
- 5 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,
- 6 part 12."

7

8 **Section 3.** Section 15-23-401, MCA, is amended to read:

9 **"15-23-401. Definitions.** As used in this part, unless the context requires otherwise, the following

10 definitions apply:

11 (1) "Air commerce" means the transportation by aircraft of persons or property for hire in interstate,

12 intrastate, or international transportation on regularly scheduled flights.

13 (2) "Aircraft" means a conveyance used or designed for navigation or flight through the air.

14 (3) "Equated plane hours" means hours spent by aircraft in flight or on the ground weighted according

15 to the cargo capacity of each aircraft.

16 (4) "Flight property" means aircraft fully equipped, ready for flight used in air commerce.

17 (5) "Newly acquired aircraft" means an aircraft acquired and placed into service within the calendar year

18 immediately preceding the current calendar year in which the report that is required by 15-23-402 is filed

19 regardless of whether the aircraft acquired is new or used. Newly acquired aircraft includes an aircraft acquired

20 and placed in service in calendar year 1997 provided that the aircraft was included in the report and the report

21 was timely filed.

22 (6) "Newly acquired equipment" means equipment acquired and placed into service within the calendar

23 year immediately preceding the current calendar year in which the report that is required by 15-23-402 is filed

24 regardless of whether the equipment acquired is new or used. Newly acquired equipment includes equipment

25 acquired and placed in service in calendar year 1997 provided that the equipment was included in the report and

26 the report was timely filed.

27 (7) "Operating" or "operated" means landings or takeoffs during interstate flight.

28 (8) "Scheduled airline company" means any person who undertakes directly or indirectly to engage in

29 the business of scheduled passenger air commerce."

30

1 **Section 4.** Section 15-23-402, MCA, is amended to read:

2 **"15-23-402. Report by airline company.** Every airline company engaged in scheduled passenger air
3 commerce in this state shall annually file with the department of revenue in such form as the department may
4 require a report under oath showing the following:

5 (1) the name of the person or persons, association, joint-stock company, or corporation;

6 (2) under the laws of what state organized or existing;

7 (3) the location of its principal office;

8 (4) the location of its principal office in this state, if any;

9 (5) the number of aircraft of each type or kind, the total original cost, the average cost per plane, the total
10 depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;

11 (6) the number of shares of capital stock authorized, number of shares outstanding, the total par value
12 and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and
13 long-term debt and the market value at the end of the preceding calendar year;

14 (7) income account showing operating revenues and expenses of the entire system and net operating
15 income during the preceding calendar year;

16 (8) the total tonnage of passengers, express, and freight first received by the airline company in this state
17 during the preceding calendar year plus the total tonnage of passengers, express, and freight finally discharged
18 by it within this state during the preceding calendar year and the total of such tonnage first received by the airline
19 company or finally discharged by it within and without this state during the preceding calendar year;

20 (9) the total time in equated plane hours of all aircraft of the scheduled airline company in flight in this
21 state during the preceding calendar year plus the total time of such aircraft on the ground in this state during the
22 preceding calendar year and the total of such time in flight or on the ground within and without this state during
23 the preceding calendar year;

24 (10) the number of revenue ton-miles of passengers, mail, express, and freight flown by the scheduled
25 airline company within this state during the preceding calendar year and the total number of such miles flown by
26 it within and without this state during the preceding calendar year;

27 (11) the number of arrivals and departures of all aircraft of the scheduled airline company in this state
28 during the preceding calendar year and the total number of such arrivals and departures within and without this
29 state during the preceding calendar year;

30 (12) such other information as the department may require."

1
2 **Section 5.** Section 67-3-102, MCA, is amended to read:
3 **"67-3-102. Exceptions.** The provisions of 67-3-101(2) and (3) do not apply to:
4 (1) an aircraft that has been licensed by a foreign country with which the United States has a reciprocal
5 agreement covering the operations of that licensed aircraft;
6 (2) an aircraft that is owned by a nonresident of this state who is lawfully entitled to operate the aircraft
7 in the state of residence;
8 (3) an aircraft engaged principally in ~~commercial flying~~ scheduled passenger air commerce constituting
9 an act of interstate or foreign commerce;
10 (4) an aircrew operating military or public aircraft or an aircraft licensed by a foreign country with which
11 the United States has a reciprocal agreement covering the operation of that licensed aircraft;
12 (5) a person operating model aircraft or a person piloting an aircraft that is equipped with fully functioning
13 dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for
14 instruction or for the demonstration of the aircraft to a prospective purchaser;
15 (6) a nonresident operating aircraft in this state who is lawfully entitled to operate aircraft in the state of
16 residence;
17 (7) an aircrew while operating or taking part in the operation of an aircraft engaged principally in
18 commercial flying constituting an act of interstate or foreign commerce."

19
20 **Section 6.** Section 67-3-201, MCA, is amended to read:
21 **"67-3-201. Aircraft registration and licensing required.** (1) Except as provided in 67-3-102 and in
22 subsection (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within
23 this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or
24 approved by the United States government that has been registered with the department and the registration with
25 the department is in force.
26 (2) Aircraft customarily kept in this state must be registered on or before March 1 of each year with the
27 department, which shall charge a fee for registration according to the fee schedule in 67-3-206. The registration
28 must be renewed annually on or before March 1 of each year.
29 (3) Section 67-3-202 and subsections (2) and (4) through (6) of this section do not apply to:
30 (a) aircraft owned and operated by the federal government, the state, or any political subdivision of the

1 state;

2 (b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

3 (c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying
4 persons ~~or property~~ for hire in interstate or international transportation; or

5 (d) dismantled or otherwise nonflyable aircraft.

6 (4) An aircraft must be registered in a particular county of the state. This county must be the county of
7 the owner's principal residence if the owner is a natural person or the owner's principal place of doing business
8 in the state if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is
9 customarily kept at a landing facility in another county within the state, the owner may register the aircraft as
10 property within the other county.

11 (5) Aircraft not registered in the state but entering the state to engage in commercial operations must
12 be registered prior to commencing operation.

13 (6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued
14 by the United States government shall pay the fee required in 67-3-206 and file with the department an
15 appropriate registration recognized and approved by the United States government."

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17 NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2014.

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19 NEW SECTION. Section 8. Applicability. [This act] applies to tax years beginning after December 31,
20 2013.

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