

HOUSE BILL 900

Introduced by O'Keefe, et al.

2/16	Introduced
2/16	Referred to Taxation
2/16	First Reading
2/19	Fiscal Note Requested
2/23	Fiscal Note Received
2/24	Fiscal Note Printed
2/26	Revised Fiscal Note Received
2/27	Revised Fiscal Note Printed
3/05	Hearing
	Died in Committee

*HOUSE* BILL NO. *900*

INTRODUCED BY *Rep. Van Valkenburg, Rep. K. Cooper, Rep. T. Beard, Rep. Brian Brown, Rep. Ryan, Rep. Bradley*  
A BILL FOR AN ACT ENTITLED "AN ACT TO PROVIDE AN EXEMPTION OF \$3,600 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE, AND

PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE FOR AN ADJUSTMENT PAYMENT TO RETIREES OF STATE, LOCAL, AND TEACHER RETIREMENT SYSTEMS WHO ARE MONTANA RESIDENTS; TO PROVIDE FOR A STATUTORY APPROPRIATION FOR THE ADJUSTMENT PAYMENTS; AMENDING SECTIONS 15-30-111, 15-30-136, 17-7-502, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003, AND 19-21-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, the State of Montana desires to tax federal, state, and private retirement benefits equally; and

WHEREAS, the State of Montana has in the past provided its employees with a benefit of employment through its tax system; and

WHEREAS, the Legislature desires and encourages qualified employees to enter and remain in public service; and

WHEREAS, it is the policy of the State of Montana to encourage public employees who become superannuated or

incapacitated to retire, and to that end to provide sufficient benefits to provide for retirement; and

WHEREAS, the Legislature wishes to encourage retired state, local, and school employees to remain within Montana to provide a critical mass of retired persons who use certain services and facilities important to retired persons and that may keep and perhaps entice more retired persons into the state; and

WHEREAS, the Legislature has in the past granted increases in retirement benefits in a manner designed to provide relatively greater increases to those retirees who were employed during the years of low wages and whose benefits are relatively small; and

WHEREAS, the Legislature therefore grants an increase in benefits to its former public employees who are residents of the state to provide compensation to encourage them to remain in Montana; and

WHEREAS, the Legislature is concerned about the "compression" of retirement benefits and desires to provide relatively greater increases to those with higher retirement benefits.

STATEMENT OF INTENT

A statement of intent is required for this bill because the public employees' retirement board and the teachers'



1 retirement board must establish schedules of adjustment  
 2 payments. The schedules must be based upon methodology  
 3 adopted by rule. The schedules must have brackets reflecting  
 4 an annual amount of benefit entitlement with a corresponding  
 5 adjustment payment amount. The methodology should provide a  
 6 way to spread the adjustment payments among all eligible  
 7 members, with the smallest payment going to those in the  
 8 bracket beginning at \$4,000 and the largest going to the top  
 9 bracket. The difference should then be spread through the  
 10 intermediate brackets using a formula in which the  
 11 retirement adjustment payment increases in relation to the  
 12 current level of benefits.

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 15-30-111, MCA, is amended to read:

16 \*15-30-111. Adjusted gross income. (1) Adjusted gross  
 17 income shall be the taxpayer's federal income tax adjusted  
 18 gross income as defined in section 62 of the Internal  
 19 Revenue Code of 1954 or as that section may be labeled or  
 20 amended and in addition shall include the following:

21 (a) interest received on obligations of another state  
 22 or territory or county, municipality, district, or other  
 23 political subdivision thereof;

24 (b) refunds received of federal income tax, to the  
 25 extent the deduction of such tax resulted in a reduction of

1 Montana income tax liability;

2 (c) that portion of a shareholder's income under  
 3 subchapter S. of Chapter 1 of the Internal Revenue Code of  
 4 1954, that has been reduced by any federal taxes paid by the  
 5 subchapter S. corporation on the income; and

6 (d) depreciation or amortization taken on a title plant  
 7 as defined in 33-25-105(15).

8 (2) Notwithstanding the provisions of the federal  
 9 Internal Revenue Code of 1954, as labeled or amended,  
 10 adjusted gross income does not include the following which  
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United  
 13 States government, the state of Montana, county,  
 14 municipality, district, or other political subdivision  
 15 thereof;

16 (b) interest income earned by a taxpayer age 65 or  
 17 older in a taxable year up to and including \$800 for a  
 18 taxpayer filing a separate return and \$1,600 for each joint  
 19 return;

20 (c) all benefits, not in excess of \$3,600, received:

21 (i) under the Federal Employees' Retirement Act;

22 (ii) under the public employee retirement laws of a  
 23 Montana or another state other-than-Montana; or

24 (iii) as an annuity, pension, or endowment under any  
 25 private or corporate retirement plan or system;

1       ~~{d}~~ all benefits paid under the teachers' retirement  
 2 law which are specified as exempt from taxation by 19-4-706;  
 3       ~~{e}~~ all benefits paid under The Public Employees'  
 4 Retirement System Act which are specified as exempt from  
 5 taxation by 19-3-105;  
 6       ~~{f}~~ all benefits paid under the highway patrol  
 7 retirement law which are specified as exempt from taxation  
 8 by 19-6-705;  
 9       ~~{g}~~ (d) all Montana income tax refunds or tax refund  
 10 credits thereof;  
 11       ~~{h}~~ all benefits paid under 19-11-602, 19-11-604, and  
 12 19-11-605 to retired and disabled firefighters, their  
 13 surviving spouses and orphans or specified as exempt from  
 14 taxation by 19-13-1003;  
 15       ~~{i}~~ all benefits paid under the municipal police  
 16 officers' retirement system that are specified as exempt  
 17 from taxation by 19-9-1005;  
 18       ~~{j}~~ (e) gain required to be recognized by a liquidating  
 19 corporation under 15-31-113(1)(a)(ii);  
 20       ~~{k}~~ (f) all tips covered by section 3402(k) of the  
 21 Internal Revenue Code of 1954, as amended and applicable on  
 22 January 1, 1983, received by persons for services rendered  
 23 by them to patrons of premises licensed to provide food,  
 24 beverage, or lodging;  
 25       ~~{l}~~ (g) all benefits received under the workers'

1 compensation laws;  
 2       ~~{m}~~ (h) all health insurance premiums paid by an  
 3 employer for an employee if attributed as income to the  
 4 employee under federal law; and  
 5       ~~{n}~~ all benefits paid under an optional retirement  
 6 program that are specified as exempt from taxation by  
 7 19-21-212; and  
 8       ~~{o}~~ (i) all money received because of a settlement  
 9 agreement or judgment in a lawsuit brought against a  
 10 manufacturer or distributor of "agent orange" for damages  
 11 resulting from exposure to "agent orange".  
 12       (3) In the case of a shareholder of a corporation with  
 13 respect to which the election provided for under subchapter  
 14 S. of the Internal Revenue Code of 1954, as amended, is in  
 15 effect but with respect to which the election provided for  
 16 under 15-31-202, as amended, is not in effect, adjusted  
 17 gross income does not include any part of the corporation's  
 18 undistributed taxable income, net operating loss, capital  
 19 gains or other gains, profits, or losses required to be  
 20 included in the shareholder's federal income tax adjusted  
 21 gross income by reason of the election under subchapter S.  
 22 However, the shareholder's adjusted gross income shall  
 23 include actual distributions from the corporation to the  
 24 extent they would be treated as taxable dividends if the  
 25 subchapter S. election were not in effect.

1 (4) A shareholder of a DISC that is exempt from the  
2 corporation license tax under 15-31-102(1)(1) shall include  
3 in his adjusted gross income the earnings and profits of the  
4 DISC in the same manner as provided by federal law (section  
5 995, Internal Revenue Code) for all periods for which the  
6 DISC election is effective.

7 (5) A taxpayer who, in determining federal adjusted  
8 gross income, has reduced his business deductions by an  
9 amount for wages and salaries for which a federal tax credit  
10 was elected under section 44B of the Internal Revenue Code  
11 of 1954 or as that section may be labeled or amended is  
12 allowed to deduct the amount of the wages and salaries paid  
13 regardless of the credit taken. The deduction must be made  
14 in the year the wages and salaries were used to compute the  
15 credit. In the case of a partnership or small business  
16 corporation, the deduction must be made to determine the  
17 amount of income or loss of the partnership or small  
18 business corporation.

19 (6) Married taxpayers filing a joint federal return who  
20 must include part of their social security benefits or part  
21 of their tier 1 railroad retirement benefits in federal  
22 adjusted gross income may split the federal base used in  
23 calculation of federal taxable social security benefits or  
24 federal taxable tier 1 railroad retirement benefits when  
25 they file separate Montana income tax returns. The federal

1 base must be split equally on the Montana return.

2 (7) A taxpayer receiving retirement disability benefits  
3 who has not attained age 65 by the end of the taxable year  
4 and who has retired as permanently and totally disabled may  
5 exclude from adjusted gross income up to \$100 per week  
6 received as wages or payments in lieu of wages for a period  
7 during which the employee is absent from work due to the  
8 disability. If the adjusted gross income before this  
9 exclusion and before application of the two-earner married  
10 couple deduction exceeds \$15,000, the excess reduces the  
11 exclusion by an equal amount. This limitation affects the  
12 amount of exclusion, but not the taxpayer's eligibility for  
13 the exclusion. If eligible, married individuals shall apply  
14 the exclusion separately, but the limitation for income  
15 exceeding \$15,000 is determined with respect to the spouses  
16 on their combined adjusted gross income. For the purpose of  
17 this subsection, permanently and totally disabled means  
18 unable to engage in any substantial gainful activity by  
19 reason of any medically determined physical or mental  
20 impairment lasting or expected to last at least 12 months.

21 (8) A person receiving benefits described in  
22 ~~subsections-(2)(d)-through-(2)(f)-,-(2)(h)-,or-(2)(i)-may-not~~  
23 ~~exclude--benefits--described--in--subsection---(2)(c)---from~~  
24 ~~adjusted--gross--income--unless--the-benefits-received-under~~  
25 ~~subsections-(2)(d)-through-(2)(f)-,-(2)(h)-,or-(2)(i)-are~~

1 ~~less than \$3,600, in which case the person may~~ subsection  
 2 (2)(c) shall combine benefits specified in subsections  
 3 (2)(c)(i) through (2)(c)(iii) to exclude ~~up to~~ not more than  
 4 a total of \$3,600 from adjusted gross income. (Subsection  
 5 ~~(2)(k)~~ (2)(f) terminates on occurrence of contingency--sec.  
 6 3, Ch. 634, L. 1983.)"

7 **Section 2.** Section 15-30-136, MCA, is amended to read:

8 "15-30-136. **Computation of income of estates or trusts**  
 9 -- exemption. (1) Except as otherwise provided in this  
 10 chapter, "gross income" of estates or trusts means all  
 11 income from whatever source derived in the taxable year,  
 12 including but not limited to the following items:

13 (a) dividends;

14 (b) interest received or accrued, including interest  
 15 received on obligations of another state or territory or a  
 16 county, municipality, district, or other political  
 17 subdivision thereof, but excluding interest income from  
 18 obligations of:

19 (i) the United States government or the state of  
 20 Montana;

21 (ii) a school district; or

22 (iii) a county, municipality, district, or other  
 23 political subdivision of the state;

24 (c) income from partnerships and other fiduciaries;

25 (d) gross rents and royalties;

1 (e) gain from sale or exchange of property, including  
 2 those gains that are excluded from gross income for federal  
 3 fiduciary income tax purposes by section 641(c) of the  
 4 Internal Revenue Code of 1954, as amended;

5 (f) gross profit from trade or business; and

6 (g) refunds recovered on federal income tax, to the  
 7 extent the deduction of such tax resulted in a reduction of  
 8 Montana income tax liability.

9 (2) In computing net income, there are allowed as  
 10 deductions:

11 (a) interest expenses deductible for federal tax  
 12 purposes according to section 163 of the Internal Revenue  
 13 Code of 1954, as amended;

14 (b) taxes paid or accrued within the taxable year,  
 15 including but not limited to federal income tax, but  
 16 excluding Montana income tax;

17 (c) that fiduciary's portion of depreciation or  
 18 depletion which is deductible for federal tax purposes  
 19 according to sections 167, 611, and 642 of the Internal  
 20 Revenue Code of 1954, as amended;

21 (d) charitable contributions that are deductible for  
 22 federal tax purposes according to section 642(c) of the  
 23 Internal Revenue Code of 1954, as amended;

24 (e) administrative expenses claimed for federal income  
 25 tax purposes, according to sections 212 and 642(g) of the

1 Internal Revenue Code of 1954, as amended, if such expenses  
2 were not claimed as a deduction in the determination of  
3 Montana inheritance tax;

4 (f) losses from fire, storm, shipwreck, or other  
5 casualty or from theft, to the extent not compensated for by  
6 insurance or otherwise, that are deductible for federal tax  
7 purposes according to section 165 of the Internal Revenue  
8 Code of 1954, as amended;

9 (g) net operating loss deductions allowed for federal  
10 income tax under section 642(d) of the Internal Revenue Code  
11 of 1954, as amended, except estates may not claim losses  
12 that are deductible on the decedent's final return;

13 (h) all benefits, not in excess of \$3,600, received:

14 (i) as federal employees' retirement;

15 (ii) as retirement from public employment in a Montana  
16 or another state other than Montana; or

17 (iii) as an annuity, pension, or endowment under private  
18 or corporate retirement plans or systems;

19 ~~(j) all benefits paid under the Montana teachers'~~  
20 ~~retirement system that are specified as exempt from taxation~~  
21 ~~by 19-4-786;~~

22 ~~(j) all benefits paid under the Montana Public~~  
23 ~~Employees' Retirement System Act that are specified as~~  
24 ~~exempt from taxation by 19-3-105;~~

25 ~~(k) all benefits paid under the Montana highway patrol~~

1 ~~officers' retirement system that are specified as exempt~~  
2 ~~from taxation by 19-6-705;~~

3 ~~(i) Montana income tax refunds or tax refund credits~~  
4 ~~thereof;~~

5 ~~(m) all benefits paid under 19-11-602, 19-11-604, and~~  
6 ~~19-11-605 to retired and disabled firemen or their surviving~~  
7 ~~spouses or children;~~

8 ~~(n) all benefits paid under the municipal police~~  
9 ~~officers' retirement system that are specified as exempt~~  
10 ~~from taxation by 19-9-1005.~~

11 (3) In the case of a shareholder of a corporation with  
12 respect to which the election provided for under subchapter  
13 S. of the Internal Revenue Code of 1954, as amended, is in  
14 effect but with respect to which the election provided for  
15 under 15-31-202 is not in effect, net income does not  
16 include any part of the corporation's undistributed taxable  
17 income, net operating loss, capital gains or other gains,  
18 profits, or losses required to be included in the  
19 shareholder's federal income tax net income by reason of the  
20 election under subchapter S. However, the shareholder's net  
21 income shall include actual distribution from the  
22 corporation to the extent it would be treated as taxable  
23 dividends if the subchapter S. election were not in effect.

24 (4) The following additional deductions shall be  
25 allowed in deriving taxable income of estates and trusts:

1 (a) any amount of income for the taxable year currently  
2 required to be distributed to beneficiaries for such year;

3 (b) any other amounts properly paid or credited or  
4 required to be distributed for the taxable year;

5 (c) the amount of 60% of the excess of the net  
6 long-term capital gain over the net short-term capital loss  
7 for the taxable year.

8 (5) The exemption allowed for estates and trusts is  
9 that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

10 (6) A trust or estate excluding benefits under  
11 ~~subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not~~  
12 ~~exclude--benefits--described--in--subsection (2)(h) from net~~  
13 ~~income unless the benefits received under subsections (2)(i)~~  
14 ~~through (2)(k), (2)(m), or (2)(n) are less than \$3,600, in~~  
15 ~~which--case--the--trust or estate may~~ subsection (2)(h) must  
16 combine benefits specified in subsections (2)(h)(i) through  
17 (2)(h)(iii) to exclude up to not more than a total of \$3,600  
18 from net income."

19 NEW SECTION. Section 3. Retirement adjustment --  
20 annual deposit -- statutory appropriation. (1) There is  
21 statutorily appropriated, as provided in 17-7-502, from the  
22 general fund to the public employees' retirement board and  
23 the teachers' retirement board the amounts provided in  
24 subsection (2) for distribution to members. The money is  
25 statutorily appropriated to the boards, as provided in

1 17-7-502, for distribution to members of retirement systems  
2 as provided in [section 4].

3 (2) On or before May 1 of each year, the state  
4 treasurer shall pay to the public employees' retirement  
5 board and the teachers' retirement board an amount equal to  
6 3% of the respective total benefits paid during the prior  
7 calendar year by the retirement systems in Title 19,  
8 chapters 3 through 13. The amount of the benefits must be  
9 certified to the treasurer by the public employees'  
10 retirement board and the teachers' retirement board no later  
11 than April 1 of each year. For the purpose of this section,  
12 the public employees' retirement board shall collect  
13 information and certify the amount of benefits paid pursuant  
14 to Title 19, chapters 10 and 11. Not later than February 15  
15 of each year, the boards of trustees of local police  
16 retirement funds, provided in 19-10-201, and boards of  
17 trustees of local fire department relief associations,  
18 provided in 19-11-104, must submit reports on benefit  
19 payments containing information requested by the public  
20 employees' retirement board.

21 NEW SECTION. Section 4. Montana retirement adjustment  
22 payments -- public employees' retirement board. (1) Not  
23 later than June 1 of each year, the public employees'  
24 retirement board and the teachers' retirement board shall  
25 fix and pay to those members entitled to it an annual



1 adjustment payment. The adjustment payment is determined for  
2 each system based upon the benefits paid by the system in  
3 the prior calendar year and on the annual benefit to which  
4 each Montana resident member of the system is entitled.

5 (2) (a) The public employees' retirement board shall  
6 allocate money appropriated for retirement adjustment to the  
7 public retirement systems in Title 19, chapters 3 and 5  
8 through 13. The allocation to each system must be made based  
9 upon the annual amount each system's benefits payments bears  
10 to the amount paid by all of the systems specified in this  
11 subsection.

12 (b) The teachers' retirement board shall administer the  
13 money appropriated for retirement adjustment to the  
14 teachers' retirement system in Title 19, chapter 4.

15 (3) (a) Each member of a system listed in subsection  
16 (2) who is a resident of the state and who is entitled to an  
17 annual benefit amount greater than \$4,000 is entitled to a  
18 retirement adjustment payment. Each retirement system  
19 specified in subsection (2), through the public employees'  
20 retirement board, the teachers' retirement board, or a local  
21 retirement board of trustees, as appropriate, shall  
22 distribute its allocation of the money appropriated for  
23 retirement adjustment to its members entitled to adjustment  
24 payments. The governing board of each system set forth in  
25 subsection (2) shall establish an adjustment payment

1 schedule. Each schedule must consist of a series of brackets  
2 setting forth annual system benefit entitlement amounts,  
3 beginning at \$4,000 and increasing in \$2,000 increments  
4 until the amount of the maximum annual benefit paid by the  
5 system is included in the schedule and an amount of  
6 adjustment payment to be made to a member corresponds to an  
7 annual benefit entitlement. In the schedule brackets, the  
8 amount of the adjustment payment must be increased as the  
9 amount of the annual benefit entitlement increases.

10 (b) The methodology that the public employees'  
11 retirement board and the teachers' retirement board use to  
12 calculate schedules for systems administered by them must be  
13 adopted by rule pursuant to Title 2, chapter 4, but the  
14 schedules calculated from the adopted methodology do not  
15 have to be adopted by rule.

16 **Section 5.** Section 17-7-502, MCA, is amended to read:

17 **"17-7-502. Statutory appropriations -- definition --**  
18 **requisites for validity.** (1) A statutory appropriation is an  
19 appropriation made by permanent law that authorizes spending  
20 by a state agency without the need for a biennial  
21 legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be  
23 effective, a statutory appropriation must comply with both  
24 of the following provisions:

25 (a) The law containing the statutory authority must be

1 listed in subsection (3).

2 (b) The law or portion of the law making a statutory  
3 appropriation must specifically state that a statutory  
4 appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing  
6 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
7 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
8 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
9 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
10 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
11 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
12 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
13 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
14 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
15 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
16 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;  
17 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;  
18 [section 3]; and section 13, House Bill No. 861, Laws of  
19 1985.

20 (4) There is a statutory appropriation to pay the  
21 principal, interest, premiums, and costs of issuing, paying,  
22 and securing all bonds, notes, or other obligations, as due,  
23 that have been authorized and issued pursuant to the laws of  
24 Montana. Agencies that have entered into agreements  
25 authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through  
2 17-2-107, as determined by the state treasurer, an amount  
3 sufficient to pay the principal and interest as due on the  
4 bonds or notes have statutory appropriation authority for  
5 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
6 664, L. 1987, the inclusion of 39-71-2504 terminates June  
7 30, 1991.)"

8 **Section 6.** Section 19-3-105, MCA, is amended to read:

9 **"19-3-105. Exemption from taxes and legal process.** The  
10 right of a person to a retirement allowance or any other  
11 benefit under this chapter and the moneys money in the fund  
12 created under this chapter is are not:

13 (1) subject to execution, garnishment, attachment, or  
14 any other process;

15 (2) subject to state, county, or municipal taxes except  
16 for:

17 (a) a retirement allowance received in excess of  
18 \$3,600; or

19 (b) a refund paid under 19-3-703 of a member's  
20 contributions picked up by an employer after June 30, 1985,  
21 as provided in 19-3-701; or

22 (3) assignable except as in this chapter specifically  
23 provided."

24 **Section 7.** Section 19-4-706, MCA, is amended to read:

25 **"19-4-706. Exemption from taxation and legal process.**

1 The pensions, annuities, or any other benefits accrued or  
 2 accruing to any person under the provisions of the  
 3 retirement system and the accumulated contributions and cash  
 4 and securities in the various funds of the retirement system  
 5 are:

6 (1) exempted from any state, county, or municipal tax  
 7 of the state of Montana except for:

8 (a) a retirement allowance received in excess of  
 9 \$3,600; or

10 (b) a withdrawal paid under 19-4-603 of a member's  
 11 contributions picked up by an employer after June 30, 1985,  
 12 as provided in 19-4-602;

13 (2) not subject to execution, garnishment, attachment  
 14 by trustee process or otherwise, in law or equity, or any  
 15 other process; and

16 (3) unassignable except as specifically provided in  
 17 this chapter."

18 **Section 8.** Section 19-5-704, MCA, is amended to read:

19 "19-5-704. **Exemption from taxes and legal process.** (1)  
 20 Any-money Money received or to be paid as a member's  
 21 annuity, state annuity, or return of deductions or the right  
 22 of any of these ~~shall--be~~ is exempt from ~~any-state-or~~  
 23 ~~municipal-tax-and-from~~ levy, sale, garnishment, attachment,  
 24 or any other process ~~whatsoever~~ and ~~shall-be~~ is unassignable  
 25 except as specifically provided in 19-5-705.

1 (2) The first \$3,600 received under this chapter is  
 2 exempt from state, county, or municipal taxation."

3 **Section 9.** Section 19-6-705, MCA, is amended to read:

4 "19-6-705. **Exemption from taxes and legal process.** Any  
 5 money received or to be paid as a member's annuity, state  
 6 annuity, or return of deductions or the right of any of  
 7 these is:

8 (1) exempt from any state, county, or municipal tax  
 9 except for:

10 (a) a retirement allowance received in excess of  
 11 \$3,600; or

12 (b) a refund paid under 19-6-403 of a member's  
 13 contributions picked up by an employer after June 30, 1985,  
 14 as provided in 19-6-402;

15 (2) exempt from levy, sale, garnishment, attachment, or  
 16 any other process; and

17 (3) unassignable except as specifically provided in  
 18 19-6-706."

19 **Section 10.** Section 19-7-705, MCA, is amended to read:

20 "19-7-705. **Exemption from taxes and legal process.** Any  
 21 money received or to be paid as a member's annuity, state  
 22 annuity, or return of deductions or the right of any of  
 23 these is:

24 (1) exempt from any state, county, or municipal tax  
 25 except for:

1 (a) a retirement allowance received in excess of  
2 \$3,600; or

3 (b) a refund paid under 19-7-304(1) of a member's  
4 contributions picked up by an employer after June 30, 1985,  
5 as provided in 19-7-403;

6 (2) exempt from levy, sale, garnishment, attachment, or  
7 any other process; and

8 (3) unassignable except as specifically provided in  
9 19-7-706."

10 **Section 11.** Section 19-8-805, MCA, is amended to read:

11 **"19-8-805. Exemption from taxes and legal process.** Any  
12 money received or to be paid as a member's annuity, state  
13 annuity, or return of deductions or the right of any of  
14 these is:

15 (1) exempt from any state, county, or municipal tax  
16 except for:

17 (a) a retirement allowance received in excess of  
18 \$3,600; or

19 (b) a refund paid under 19-8-503 of the member's  
20 contributions picked up by an employer after June 30, 1985,  
21 as provided in 19-8-502;

22 (2) exempt from levy, sale, garnishment, attachment, or  
23 any other process; and

24 (3) unassignable except as specifically provided in  
25 19-8-806."

1 **Section 12.** Section 19-9-1005, MCA, is amended to read:

2 **"19-9-1005. Exemption from taxes.** Any money paid in  
3 accordance with the provisions of this chapter is exempt  
4 from any state, county, or municipal tax except for:

5 (1) a retirement allowance received in excess of  
6 \$3,600; or

7 (2) a refund paid under 19-9-304 of a member's  
8 contributions picked up by an employer after June 30, 1985,  
9 as provided in 19-9-601."

10 **Section 13.** Section 19-10-504, MCA, is amended to read:

11 **"19-10-504. Protection of benefits from legal process**  
12 **and taxation.** (1) The benefits provided for in this part are  
13 not subject to execution, garnishment, attachment, or the  
14 operation of bankruptcy, insolvency, or other process of law  
15 and are unassignable except as specifically provided in  
16 19-10-505.

17 (2) The first \$3,600 of benefits received under this  
18 part are exempt from state, county, and municipal taxation."

19 **Section 14.** Section 19-11-612, MCA, is amended to read:

20 **"19-11-612. Protection of benefits from legal process**  
21 **and taxation -- nonassignability.** (1) Any payments made or  
22 to be made under this chapter are not subject to judgments,  
23 garnishment, execution, or other legal process. A person  
24 entitled to a pension may not assign the right, and the  
25 association and trustees may not recognize any assignment or

1 pay over any sum so assigned.

2 (2) The first \$3,600 of benefits received under this  
3 part are exempt from state, county, and municipal taxation."

4 **Section 15.** Section 19-12-407, MCA, is amended to read:

5 "19-12-407. Payment of pension benefits -- exemption  
6 from taxation. (1) All payments under the volunteer  
7 firefighters' pension plan must be approved by the board and  
8 paid by warrants drawn upon the pension trust fund, payable  
9 to the order of the individual qualified volunteer  
10 firefighter or the beneficiary as provided in 19-12-405(1).

11 (2) The first \$3,600 of benefits received under this  
12 part are exempt from state, county, and municipal taxation."

13 **Section 16.** Section 19-13-1003, MCA, is amended to  
14 read:

15 "19-13-1003. Exemption from taxes. Any money paid in  
16 accordance with the provisions of this chapter is exempt  
17 from any state, county, or municipal tax except for:

18 (1) the retirement allowance received in excess of  
19 \$3,600; or

20 (2) refunds paid under 19-13-602 of the member's  
21 contributions picked up by an employer after June 30, 1987,  
22 as provided in 19-13-601."

23 **Section 17.** Section 19-21-212, MCA, is amended to read:

24 "19-21-212. Exemption from taxation, legal process, and  
25 assessments. All contracts, benefits, and contributions

1 under the optional retirement program and the earnings  
2 thereon are:

3 (1) except for a retirement allowance received in  
4 excess of \$3,600, exempt from any state, county, or  
5 municipal tax;

6 (2) not subject to execution, garnishment, attachment,  
7 or other process;

8 (3) not covered or assessable by an insurance guaranty  
9 association; and

10 (4) unassignable except as specifically provided in the  
11 contracts."

12 **NEW SECTION. Section 18. Nonseverability.** It is the  
13 intent of the legislature that each part of [this act] is  
14 essentially dependent upon every other part, and if one part  
15 is held unconstitutional or invalid, all other parts are  
16 invalid.

17 **NEW SECTION. Section 19. Codification instruction.**  
18 [Sections 3 and 4] are intended to be codified as an  
19 integral part of Title 19, and the provisions of Title 19  
20 apply to [sections 3 and 4].

21 **NEW SECTION. Section 20. Effective date -- retroactive**  
22 **applicability.** [This act] is effective on passage and  
23 approval and applies retroactively, within the meaning of  
24 1-2-109, to taxable years beginning after December 31, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0900, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide an exemption of \$3,600 from taxation of benefits from federal, state, and private retirement, annuity, pension, and endowment plans or systems; to provide for an adjustment payment to retirees of state, local, and teacher retirement systems who are Montana residents; to provide for a statutory appropriation for the adjustments payments; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

Department of Revenue:


1. Individual income tax collections under current law are \$311,176,000 in FY92 and \$327,201,000 in FY93 (OBPP).
2. Limiting all pension benefit payments to a flat exclusion of \$3,600 increases revenue \$10.430 million in FY92, and \$11.470 million in FY93 (DOR income tax simulations).

Public Employees Retirement System (PERS) and Teachers Retirement System (TRS):

3. The statutory appropriation provided for in Section 3 increases state and local benefit payments \$4.370 million in FY92, and \$4.715 million in FY93. The statutory appropriation will appropriate 3% of the total benefits paid in the previous calendar year to the various retirement boards. The appropriation will be made from the general fund. The retirement adjustment payments in Section 4 approximate these amounts of statutory appropriations.
4. The \$3,600 exclusion limit is effective for tax years beginning after December 31, 1990; and the increase in benefit payments provided for in Section 3 will first be applied in fiscal year 1992.
5. The retirement adjustment payments will be calculated in each bracket as provided in Section 4 as a percentage of the total benefits received during the preceding calendar year. The bracket applicable to each eligible retiree will be determined based upon the annual benefit the retiree is eligible to receive. Members receiving lump sum withdrawals or lump sum payments on account of death will not be eligible for the retirement adjustment in Section 4.
6. Data processing enhancements required to calculate the retirement adjustment payments will cost PERS \$50,000 in FY92 and \$5,000 in FY93 and TRS \$25,000 in FY92.

FISCAL IMPACT:

see next page

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      2-22-91      DATE  
Office of Budget and Program Planning

\_\_\_\_\_  
MARK O'KEEFE, PRIMARY SPONSOR      DATE

Fiscal Note for HB0900, as introduced      HB 900

Fiscal Note Request, HB0900, as introduced

Form BD-15

Page 2

FISCAL IMPACT:

Expenditures:

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
3% Statutory Appropriation	0	4,370,000	4,370,000	0	4,715,000	4,715,000
PERS (Operating Expenses)	0	50,000	50,000	0	5,000	5,000
TRS (Operating Expenses)	0	25,000	25,000	0	0	0
Total	0	4,445,000	4,445,000	0	4,720,000	4,720,000
<u>Funding:</u>						
General Fund	0	4,370,000	4,370,000	0	4,715,000	4,715,000
Various Retirement System						
Trust Funds (09)	0	75,000	75,000	0	5,000	5,000
<u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	321,606,000	10,430,000	327,201,000	338,671,000	11,470,000
Net General Fund Impact			6,060,000			6,755,000

TECHNICAL NOTES:

Section 4 provides that each Montana resident of the retirement system is entitled to an adjustment payment. For purposes of this section, "Montana Resident" must be defined.

Section 3 requires the Treasurer's Office to be notified, by April 1 of each year, of the total benefits paid during the preceding calendar year. The Treasurer's Office must make their payment to the retirement boards by May 1 of each year. For the purposes of this section it must be clarified that the first payments are to be made in calendar year 1992.

HB 900

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0900, as introduced, revised.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide an exemption of \$3,600 from taxation of benefits from federal, state, and private retirement, annuity, pension, and endowment plans or systems; to provide for an adjustment payment to retirees of state, local, and teacher retirement systems who are Montana residents; to provide for a statutory appropriation for the adjustments payments; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

Department of Revenue:


1. Individual income tax collections under current law are \$311,176,000 in FY92 and \$327,201,000 in FY93 (OBPP).
2. Limiting all pension benefit payments to a flat exclusion of \$3,600 increases revenue \$10.430 million in FY92, and \$11.470 million in FY93 (DOR income tax simulations).


Public Employees Retirement System (PERS) and Teachers Retirement System (TRS):

3. The statutory appropriation provided for in Section 3 increases state and local benefit payments \$4.370 million in FY92, and \$4.715 million in FY93. The statutory appropriation will appropriate 3% of the total annuity benefits paid in the previous calendar year to the various retirement boards. The appropriation will be made from the general fund. The retirement adjustment payments in Section 4 approximate these amounts of statutory appropriations.
4. The \$3,600 exclusion limit is effective for tax years beginning after December 31, 1990; and the increase in benefit payments provided for in Section 3 will first be applied in fiscal year 1992.
5. The retirement adjustment payments will be calculated in each bracket as provided in Section 4 as a percentage of the total benefits received during the preceding calendar year. The bracket applicable to each eligible retiree will be determined based upon the annual benefit the retiree is eligible to receive. Members receiving lump sum withdrawals or lump sum payments on account of death will not be eligible for the retirement adjustment in Section 4.
6. Data processing enhancements required to calculate the retirement adjustment payments will cost PERS \$50,000 in FY92 and \$5,000 in FY93 and TRS \$25,000 in FY92.

FISCAL IMPACT:

see next page

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      2-26-91      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
MARK O'KEEFE, PRIMARY SPONSOR      2/27/1991 A.O.      DATE  
Fiscal Note for HB0900, as introduced, revised      HB 900  
Rev.



FISCAL IMPACT:

Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
3% Statutory Appropriation	0	4,005,600	4,005,600	0	4,469,000	4,469,000
PERS (Operating Expenses)	0	50,000	50,000	0	5,000	5,000
TRS (Operating Expenses)	<u>0</u>	<u>25,000</u>	<u>25,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	0	4,080,600	4,080,600	0	4,474,000	4,474,000
<u>Funding:</u>						
General Fund	0	4,005,600	4,005,600	0	4,469,000	4,469,000
Various Retirement System						
Trust Funds (09)	0	75,000	75,000	0	5,000	5,000
<u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	321,606,000	10,430,000	327,201,000	338,671,000	11,470,000
Net General Fund Impact			6,424,400			7,001,000

TECHNICAL NOTES:

Section 4 provides that each Montana resident of the retirement system is entitled to an adjustment payment. For purposes of this section, "Montana Resident" must be defined.

Section 3 requires the Treasurer's Office to be notified, by April 1 of each year, of the total benefits paid during the preceding calendar year. The Treasurer's Office must make their payment to the retirement boards by May 1 of each year. For the purposes of this section it must be clarified that the first payments are to be made in calendar year 1992.

HB 900  
Rev.