MINUTES

MONTANA SENATE
52nd LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on January 8, 1992, at 8:03 a.m.

ROLL CALL

Members Present:
Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: none

Staff Present: Jeff Martin (Legislative Council)

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Senator Halligan announced that the liquor bill would probably be heard on Friday, January 10, 1992.

HEARING ON SENATE BILL 1

Presentation and Opening Statement by Sponsor:

Senator John Harp, District 4, said Senate Bill 1 clarifies the unintended tax benefit for taxable year 1990, created by Senate Bill 226, passed during the 52nd Legislature. He explained that the original intent of Senate Bill 226 applied to adjustments in taxable year 1991, but the language of the bill did not reflect this.

Proponents' Testimony:

Bob Marks, Director, Department of Administration, advised the Committee that the wrong effective date, with respect to the timing of the reimbursement payments to retirees, slipped by in Senate Bill 226 during the final days of the 52nd Legislature. He explained that Greg Petesch, Director of Legal Services, Legislative Council, issued an opinion that the law, as passed, would require the Legislature to make three payments. Mr. Marks stated that if Senate Bill 1 passes, the first payment would be made in May, 1992. He further stated that if the bill did not pass, two payments would be made that date, at a cost of $2.9 to $3 million. Mr. Marks commented that he believes Senate Bill 1 clears up the oversight in Senate Bill 226.

Opponents' Testimony:

Art Whitney, Vice Chairman, Association of Montana Retired Pubic Employees, read from prepared testimony in opposition to the bill (Exhibit #1).

Questions From Committee Members:

Tom Bilodeau, Research Director, Montana Education Association, referred to a graph on Teacher Retirement System (TRS) and Public Employee Retirement System (PERS) pensions (Exhibit #2). He explained that TRS retirees have one half the buying power of 1975 dollars, and that 1975 PERS retirees receive less than $300 per month. Mr. Bilodeau told the Committee that this is a serious, long term problem, and needs to be addressed because Senate Bill 227 doesn't have a guaranteed funding source.

Tom Schneider, Montana Public Employees Association, said he has the same problem as the other opponents. He offered a solution that dollars come out of the pension system, if someone has to wait to be made whole. Mr. Schneider explained that he believes the actuary of the retirement system would probably say that dollars taken from that system would not have an effect on it. He stated that he doesn't believe people would be made whole under Senate Bill 226.

Senator Towe referred to section 5, on page 18, of Senate Bill 226, and asked if payments could be done around April 15, before June 1 of each year. Bob Marks asked that Larry Nachtsheim, Public Employees Retirement Division (PERD), respond. Mr. Nachtsheim replied that payment would be set up as part of payroll checks. He explained that the Division has sent nearly 450 forms to individual retirement systems to get information from political subdivisions by February 15. Mr. Nachtsheim further explained that the Division would receive the funds from the treasurer's office on April 1, and would pro-rate them back to the systems,making it difficult to send payments out by April 15. He stated he was not opposed to Mr. Schneider's suggestion, but cost-of-living increase (COLA) dollars would be reduced, because the system would not be earning as much interest.

Senator Towe asked what would happen if payments came out before the April 15 deadline. Bob Marks replied he would agree to that, if it were possible and would not impact the system, but he wanted to rely on information from the retirement system.

Senator Towe asked if May 1 could be changed to March 1, and June 1 to April 1. Larry Nachtsheim replied he did not believe such a change could be made this year, but could be done in future years. He explained that he did not know what dollars are available in the treasurer's tax fund, but that a COLA is being paid to 11,000 people this month. David Senn, Executive Director, Teacher's Retirement System, replied that he would rely on ISD, who is geared to meet the June 1 deadline, but must meet many other deadlines this year, as well.

Senator Doherty asked what the projected fiscal impact of Senate Bill 226 is. Senator Harp replied that there was no fiscal note for taxable year 1990, but he believed it to be about $5.5 or $6 million for the biennium.

Senator Harp, asked if dollars would be withheld for 16 months, or 6 weeks, for returns filed by April 15. Dennis Adams, Director, Department of Revenue, replied that a proposal on estimated tax payments was drafted to be effective January 1, 1993. He said all retirees owing more than $500 in tax, would have to make estimated tax payments and be reimbursed 14 months later, or June 1 of the following year.

Senator Towe asked what would happen if the bill were amended to take money out of principal, and it did not affect income. Larry Nachtsheim replied that changing where the dollars come from won't change the problem.

Senator Towe asked if the state could sign a promissory note if money were taken from the retirement fund. Larry Nachtsheim replied that it would still be reaching amortization reserves.

Senator Towe asked if the fund could stand this kind of hit. Larry Nachtsheim replied it probably wouldn't hurt as much as it would have a few years ago. He explained that retirees received a 2.13 percent payment increase in 1990, 2.26 percent in 1991, and would receive an anticipated 2 percent in 1992, affecting the fund by .5 percent over this period.

Senator Towe asked David Senn the same question. Mr. Senn replied he could account for interest income. He explained that teacher retirements distributions would be about 1.64 percent this year, on 34 years on the amortization scale. He further explained that the scale would probably hit about 40 years for $600,000 debt in amortization liability. Mr. Senn advised the Committee that other states are robbing their pension plans, and that he did not want to do the same in Montana.

Closing by Sponsor:

Senator Harp made no closing comments.

EXECUTIVE ACTION ON SENATE BILL 1

Motion to Amend:

Senator Van Valkenburg made a motion to amend by requirement payment by April 1, beginning in calendar year 1993, instead of June 1.

Discussion:

Senator Towe advised the Committee that, according to Larry Nachtsheim's plan, the payment schedule would be on the date of regular payments. He asked if the motion proposed separate payments, or a payment on the last day of March. Senator Van Valkenburg replied he assumed the benefit would be put in by the end of March. Larry Nachtsheim commented that he must send notices to 1500 people to ascertain whether or not they are state residents.

Recommendation and Vote:

The motion to amend, made by Senator Van Valkenburg, carried unanimously.

Senator Harp made a motion that Senate Bill 1 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment At: 8:37 a.m.

MIKE HALLIGAN, Chairman

JOANN T. BIRD, Secretary

MH/jtb

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ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1-8-92

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	✓		
SENATOR STEVE DOHERTY	✓		
SENATOR DELWYN GAGE	✓		
SENATOR JOHN HARP	✓		
SENATOR FRANCIS KOEHNKE	✓		
SENATOR GENE THAYER	✓		
SENATOR TOM TOWE	✓		
SENATOR FRED VAN VALKENBURG	✓		
SENATOR BILL YELLOWTAIL	✓		
SENATOR DOROTHY ECK, V CHR	✓		
SENATOR MIKE HALLIGAN, CHAIR	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 8, 1992

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 1 (first reading copy -- white), respectfully report that Senate Bill No. 1 be amended and as so amended do pass:

1. Title, line 8.
Following: "ACT;"
Insert: "REVISING THE DATE ON WHICH THE STATE TREASURER TRANSFERS FUNDS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD AND THE TEACHERS' RETIREMENT BOARD AND THE DATE ON WHICH ADJUSTMENT PAYMENTS ARE MADE;"
Following: "AMENDING"
Insert: "SECTIONS 19-15-101 AND 19-15-102, MCA, AND"

2. Title, line 9.
Strike: "AN IMMEDIATE"
Strike: "DATE"
Insert: "DATES"

3. Page 2.
Following: line 25
Insert: "Section 2. Section 19-15-101, MCA, is amended to read:

"19-15-101. Retirement adjustment -- annual deposit -- statutory appropriation. (1) There are statutorily appropriated, as provided in 17-7-502, from the general fund to the public employees' retirement board and the teachers' retirement board the amounts provided in subsection (2) for distribution to members of retirement systems as provided in 19-15-102.

(2) On or before ~~May~~ March 1 of each year, the state treasurer shall pay to the public employees' retirement board and the teachers' retirement board an amount equal to 2½% of the total benefits paid by both systems during the prior calendar year. In distributing the appropriations to the boards, the treasurer shall consult with the boards to determine the amounts necessary for uniform payments to members. The amount of the benefits must be certified to the treasurer by the public employees' retirement board and the teachers' retirement board no later than April 1 of each year. For the purpose of this section, the public employees' retirement board shall collect information and certify the amount of benefits paid pursuant to Title 19, chapters 10 and 11. Not later than February 15 of each year, the boards of trustees of local police retirement funds, provided in 19-10-201, and boards of trustees of local fire department relief associations, provided in 19-11-104, shall submit reports on benefit payments containing information requested by the public employees' retirement board."

Section 3. Section 19-15-102, MCA, is amended to read:

"**19-15-102. Montana retirement adjustment payments -- public employees' retirement board.** (1) Not later than ~~June~~ April 1 of each year, the public employees' retirement board and the teachers' retirement board shall fix and pay to those members entitled to it an annual adjustment payment. The adjustment payment is determined for each system based upon the benefits paid by the system in the prior calendar year and on the annual benefit to which each Montana resident member of the system is entitled.

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

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

(3) (a) Each member of a system listed in subsection (2) who is a resident of the state and who is entitled to an annual benefit is entitled to a retirement adjustment payment. Each retirement system specified in subsection (2), through the public employees' retirement board, the teachers' retirement board, or a local retirement board of trustees, as appropriate, shall distribute its allocation of the money appropriated for retirement adjustment to its members entitled to adjustment payments. The governing board of each system set forth in subsection (2) shall provide an annual adjustment payment that is a percentage of annual benefits.

(b) The methodology that the public employees' retirement board and the teachers' retirement board use to calculate adjustments for systems administered by them must be adopted by rule pursuant to Title 2, chapter 4.

(c) For the purposes of this section, a "Montana resident" means a person domiciled in the state and any person who maintains a permanent place of abode within the state.""

Renumber: subsequent section

4. Page 3, line 1.
Strike: "date"
Insert: "dates"

5. Page 3, line 2.
Following: "applicability."
Strike: "[This act] is"
Insert: "(1) [Section 1 and this section] are"

January 8, 1992

6. Page 3, line 3.
Strike: "and"
Insert: ". [Section 1]"

7. Page 3.
Following: line 4
Insert: "(2) [Sections 2 and 3] are effective July 1, 1992."

Signed: ______________________
Mike Halligan, Chairman

1-8-92
Amd. Coord.

SB 1-8 10:50
Sec. of Senate

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CX F 1
1-8-92
SB 1

AMRPE

Association of Montana Retired Public Employees

Post Office Box 4721
Helena, Montana
59604

A non-profit corporation of P.E.R.S. Retirees for P.E.R.S. Retirees

TESTIMONY - JANUARY 8, 1992

Association of Montana Retired Public Employees

SB 1

AMRPE's position on the provision of SB 1 that would delay the payment of our 1991 retirement adjustment until June 1992 is dependent upon whether we remain able to make our tax payments by April 15 of the following year without penalty.

SB 226 broke an agreement of over 40 years between state and local governments and their employees that had exempted the pensions of those employees from state income tax. In lieu of this, SB 226 authorized a transfer of money equal to 2-1/2 percent of the previous year's pension payments from the general fund to the retirement funds in an effort to keep the retirees income "whole." It will not accomplish this for all retirees but at least it softens the blow.

Under the present system which assesses no penalties for paying one's entire tax on April 15, we would be "loaning" the state the money for only one-and-one-half to two months. However, if the bill to assess penalties for not paying taxes throughout the year (LC0005/01) is passed, we will either have to pay them quarterly by declaration or, more likely, will have them withheld from our pension checks.

In that event, we will start paying each year's taxes one-and-one-half years before receiving our adjustment for that year, and we will never have less than six months of our taxes loaned to the state. Those of us now retired will never catch up. When death ends our annuity payments, each of us will have paid (depending on what month we die) from six to eighteen months more in taxes than we have received in adjustments.

In order to keep our adjustments as current as possible to our tax payments, we do not oppose SB 1 provided retirees are exempted, along with farmers and ranchers, from the provisions of LC0005/01.

mea
Montana Education Association 1232 East Sixth Avenue • Helena, Montana 59601 • 406-442-4250

Ex #2
1-8-92
SB 1

SB1 -- HARP

--- 1992 RETIREMENT ISSUES FACTSHEET ---

---- 1991 RETIREMENT LEGISLATION ----
THE "ZERO SUM (OR WORSE)" TAXATION GAME!

On retirement issues, the 1991 legislature produced a very mixed record. On the plus side, Representative Nisbet's (D-Great Falls and a GFEA member) bill to allow educators to buy lost service time due to illness, strike or other reason was passed and signed by the governor. MEA was also successful in working with TRS to prevent Montana's university system from ending employer contributions to TRS in respect to the long-term liabilities associated with the "Optional Retirement Program." If this legislation (SB264) would have passed as originally introduced, the TRS would have had its contribution base cut by $700,000 per year.

On the negative side, the legislature tabled MEA's bills to establish a "Guaranteed Annual Benefit Adjustment" (GABA) for both TRS and PERS. Ignoring the obvious and substantial adverse impact of inflation on retirees' pensions (see separate "GABA Factsheet"), the legislature decided to continue to let retirees fend for themselves. MEA will be back in 1993 with follow-up GABA, or similar inflation-protection pension legislation.

Finally, on the final day of the 1991 session and in the face of MEA opposition, the legislature enacted and later the governor signed into law SB226 -- TRS/PERS pension taxation.

SB226 eliminated the fifty-year old income tax exempt status of TRS and PERS pension benefits. In its place, SB226 provided each individual a pension exclusion of the first $3,600 in benefits per year <u>if</u> that individual's total income from all sources is less than $30,000. Following a rapid phase-out of the total income threshold, even the $3,600 exclusion is lost if individual annual income exceeds $31,800. As a purported "make-whole" adjustment for the imposition of tax, Montana resident TRS and PERS retirees will have their pensions boosted upwards by +2.5%. Unfortunately, SB226's "make-whole" adjustment isn't enough to fully cover the cost of the new tax for even the typical 1991 TRS retiree.

Ex. 2
1-8-92
SB 1

Montana Education Association 1232 East Sixth Avenue • Helena, Montana 59601 • 406-442-4250

SB226 (HARP) -- PENSION TAXATION & BENEFIT ADJUSTMENTS

BEFORE THE HOUSE TAXATION COMMITTEE
TOM BILODEAU - MEA RESEARCH DIRECTOR
APRIL 5, 1991

MEA's position statement on PERS & TRS pension taxation is explicit:

> "MEA opposes efforts to tax school employees' retirement benefits without an equivalent replacement benefit." (MEA Leg.Program #59)

SB226 doesn't come close to complying with the Association's position and further threatens the minimal financial security presently provided by retirement benefits ravaged by inflation over the last fifteen years. (See the graph/tables appearing at the back of these materials.) MEA stands in opposition to SB226 as presented to the House.

As amended by the Senate, SB226 will impose Montana income taxation on all TRS and PERS benefit income in excess of $3,600 per year. The imposition of state income taxation on these public retirement benefits violates the historic and recurring promise made to state and school district employees. Indeed, as recently as 1985 with enactment of "employer pick-up" of employee pension contributions as a pre-tax wage deduction, Montana unambiguously reaffirmed the tax exempt status of state pension benefits as an integral component of state employees' compensation package.

Without specifying a funding source, the bill also proposes a one-time 2% upward adjustment in TRS and PERS benefit levels. This adjustment is sometimes described by SB226 proponents as a "make-whole" or "hold-harmless" off-set for this proposed new tax. Unfortunately, for the typical 1991 TRS retiree, an upward benefit adjustment of at least 3.5% is required to be "made-whole" for SB226's proposed taxation levels! (See tables on following pages.) In the very first year of pension taxation under SB226, many TRS retirees will see taxation effectively reduce the value of their pension by more than 1% (>-$200). As time passes, and as both the aggregate level of benefits and quite likely the level of taxation increase, the adverse impact of taxation on pension purchasing value will grow even more pronounced.

Finally, SB226 fails to identify a viable funding source for the proposed benefit adjustment. (See: Sec.3.) As presented by the Senate, SB226 virtually invites increased employer contributions to fully or partially pay for the benefit adjustment. Such a funding mechanism transfers the TRS benefit adjustment cost to county retirement levy property taxpayers. Moreover, raising TRS employer contributions by 1/2% or more, to over 8% of payroll, will significantly diminish prospects that the Legislature will ever seriously deal with the continuing adverse impact of inflation on fixed retiree pensions.

Ex. 2
1-8-92 SB 1

JUNE 1990

MEA-R Newsline

Montana Education Association Retired Members Program
1232 East Sixth Avenue
Helena MT 59601
1-800-332-2270

Volume 6, Number 2 - June 1990

Will the State tax your retirement benefits?

Just over one year ago, the U.S. Supreme Court ruled that Michigan's state income tax exemption for state and local retiree benefit income was unconstitutional if the same exemption was not also allowed for federal retiree benefit income, Davis v. Michigan Dept. of Treasury (1989).

Currently, the Court is considering whether states must refund already collected state income tax revenue resulting from federal retiree benefit income. Additionally, separate legal actions have been filed or are being planned in Montana and other states which assert a constitutional right to "equal tax treatment" and refund entitlements for both federal and private pension retirement benefit recipients.

The Supreme Court's decision unleashed a whirlwind of legislative activity in two dozen states — including Montana — that had state income tax exemptions for state and local retiree benefits similar to those provided by Michigan law. Montana narrowly avoided a hasty legislative response during last summer's special legislative session. However, Montana's Department of Revenue, by administrative rule, did not collect income tax on federal retiree benefit income for 1989. Regardless, the issue of taxing your retirement benefits will be one of the major issues for debate during the 1991 regular legislative session.

Historically, MEA has opposed state income taxation of TRS and PERS benefits. Our position is fundamentally grounded on the fact that the overall level of TRS and PERS benefits were initially determined and subsequently adjusted based on the presumption of income tax exemption. If constitutional law mandates a technical adjustment in the manner that Montana treats non-state/local retiree income or otherwise requires a statutory amendment of Montana's income tax law, MEA will hold fast to the position that TRS and PERS retirement benefit recipients must — at the very least — be "held-harmless" and continue to receive the same retirement benefit value that is presently received.

MEA can pursue our position on taxation of retiree benefits in a number of different ways. We can, for example, argue for a "minimal response" to the Supreme Court's decision by exempting federal retiree benefit income, or we can conditionally accept taxation of TRS-PERS benefit income so long as a corresponding increase of the benefit level is legislated. (A summary prepared by the Federation of Tax Administrators on how eleven other states have responded to the Davis decision is found below.)

The MEA Retirement Committee and Jack Johnson (MEA-R Chair) are interested in hearing your ideas on this issue. We'd also like to know if you are interested in helping on the 1991 legislative lobby effort concerning taxation of TRS-PERS benefits and/or other MEA retirement issues. Please send your comments to: Tom Bilodeau, MEA, 1232 E.Sixth Ave., Helena MT 59601.

Benefits — continued on page 2

Congratulations to newly elected MEA-R State Chair: Jack Johnson of Billings

Benefits — continued from page 1

Eleven states have enacted legislation to alter the state income taxation of public employee retirement benefits in response to the 1989 U.S. Supreme Court decision in Davis. These states have not, for the most part, opted to exempt fully the federal retirement benefits. Instead, they have chosen to impose tax on a substantial portion of state and local benefits by allowing state, local, and federal retirees to exclude a relatively modest amount of retirement income from taxation. As shown in the table, in all but two states, the exclusions range from $2,000 to $6,000.

CHARACTERISTICS OF STATE LEGISLATION PASSED IN RESPONSE TO DAVIS V. MICHIGAN DEPARTMENT OF TREASURY

State	Exclusion Level	Includes Private	Age Limit	Phase-Out of Exclusion	Benefit Offset	Prior Tax on State/Local
Arizona	$2,500	NO	NO	NO	YES	Exempt
Colorado[1]	$20,000	YES	55	NO	NO	Same
Iowa[2]	$2,500	NO	55	NO	NO	Exempt
Missouri[3]	$6,000	NO	NO	YES	NO	Exempt
New York[4]	Exempt	NO	NO	N/A	N/A	Exempt
Oklahoma	$5,500	NO	NO	NO	NO	Exempt
Oregon[5]	$5,000	NO	62	YES	YES	Exempt
South Carolina[6]	$3,000	YES	NO	NO	YES	Exempt
Virginia[7]	$16,000	YES	55	YES	NO	Exempt
West Virginia	$2,000	NO	NO	NO	NO	Same
Wisconsin[8]	Exemption for federal employees entering prior to 1/1/64	NO	NO	N/A	N/A	Same - Taxed unless in Milwaukee systems prior to 1/1/64

[1]Colorado - State, local, federal and private retirees over age 55 may exclude the first $20,000 of retirement income. Under prior law, state, local, federal civilian and private retirees regardless of age were eligible for a $20,000 exclusion, but military retirees under age 55 were accorded only a $2,000 exclusion.

[2]Iowa - Exclusion level is $2,500 for single taxpayers and $5,000 for joint filers. It is effective for tax year 1989 only. Without change, all pension benefits will be taxable in 1990.

[3]Missouri - Exclusion is $3,000 in tax year 1989 and $6,000 in 1990 and forward. The $6,000 exclusion will apply to private pensioners in tax year 1991. The exclusion is not allowed for taxpayers with an adjusted gross income of greater than $25,000 single/$32,000 married ($12,500/$16,000 in tax year 1989.)

[4]New York - exempts benefits received by federal retirees. State Constitution prohibits taxation of state and local retirement benefits. Previously, federal retirees (as well as all other retirees) were eligible for a $20,000 exclusion.

[5]Oregon - Exclusion phased out between $30,000-35,000 income. State and local retirees will receive a rebate of the additional tax paid. The new law expires after tax year 1990.

[6]South Carolina - Private retirees must be age 62 or over to qualify for the exclusion.

[7]Virginia - The first $16,000 of retirement income is fully excluded; for income between $16,000 and $40,000, the exclusion is reduced by $1 for every $3 of income down to $8,000; over $40,000, no exclusion is allowed. The exclusion is phased in over three years. Taxpayers with retirement income between $16,000 and $40,000, the exclusion is reduced by $1 for every $3 of income down to $8,000; over $40,000, no exclusion is allowed. The exclusion is phased in over three years. Taxpayers with retirement income between $16,000 and $40,000 will be allowed 50% of the allowable exclusion in tax year 1989, 75% in 1990 and 100% in 1991 and forward.

[8]Wisconsin - Exempts benefits of federal retirees who entered systems prior to January 1, 1964. Benefits received by other federal retirees and all state and local retirees, except those entering certain Milwaukee local systems prior to January 1, 1964, will remain fully taxable. Source: Federation of Tax Administrators compilation from various sources.

MARCH 1991

MEA-R NEWSLINE

Montana Education Association Retired Members Program

1232 East Sixth Avenue — Helena MT 59601
Volume 7, Number 1 March 1991

OW!

& PERS Pension Tax Bills eaten Your Livelihood!

...ring the next two weeks, critical ...and legislative leadership) dec... ...made on bills that propose to tax ...etirement System (TRS) and Public ...etirement System (PERS) pension ...EA's Legislative Program (item ...on the issue is explicit: ...pposes efforts to tax school ...' retirement benefits without ...alent replacement benefit." ...bills presently before the Legisla... ...mply with the Association's

...Legislators on the House ...te Tax Committees (a list ...n the following page), ...e leadership or legislators ...r area now to express your ...n this issue.

MEA opposes SB 124 (Senator ... R-Hamilton). SB 124 would ...n taxation the first $12,000 of state, ...rivate retirement pension benefits. ...any pension income in excess of ...ld be treated as ordinary income ...ductions, credits, and ultimately ...24 fails to provide any pension ...o offset for the new tax and the ...hold is not indexed — i.e. as ...s begin receiving benefits, a ...on of their benefits will be subject

MEA also opposes SB 226 (Senator John Harp; R-Kalispell). SB 226 is the Governor's most recent proposal for pension taxation. It would exempt the first $10,000 of pension benefits if the "retiree household's" total income is less than $35,000. For households having total annual income of more than $35,000, all pension income would be taxed. SB 226 lacks any pension adjustment mechanism, the threshold levels are not indexed, and no provision is made for the adverse taxation impacts that result when additional taxable income climbs above Social Security's current $21,000 threshold.

Although sympathetic to the intent of Senator Dorothy Eck's (D-Bozeman) bill, MEA also opposes SB 218. SB 218 would tax all pension benefit income above $3,600 but then provide a tax rebate to TRS and PERS pensioners that equals the amount of tax they paid on TRS and PERS benefits. Unfortunately, the bill's rebate formula fails to fully reimburse pensioners for all of the new tax they will be paying if the pensioner has any non-pension income. Additionally, SB 218 is structured in such a way that federal pensioners have rather persuasively argued that they will succeed in a threatened court challenge.

MEA vigorously opposed all three of the Senate bills when they were heard before the

Act Now — continued on page 2

Act Now — continued from page 1

Senate Taxation Committee. All three bills are now awaiting executive action by the Senate Taxation Committee.

Meanwhile, in the House, Representative O'Keefe (D-Helena) has introduced HB 900. Presently, HB 900 is supported by the Montana Retired Teachers' Association and the Montana Association of Retired Public Employees. HB 900 raises TRS and PERS benefits by 2.5% in an attempt to offset the amount of new income tax imposed on TRS or PERS benefits in excess of $3,600 a year. O'Keefe's bill comes the closest of all pending bills to holding retirees harmless for newly imposed taxes. However, during the House Taxation Committee hearing on March 5, an attorney representing federal pensioners promised litigation if HB 900 was enacted.

MEA is presently reserving judgment on HB 900. We are watching the bill (and possible amendments) very closely as the Legislative Leadership appears interested in incorporating the proposed $3,600 pension exemption threshold plus a minimal offsetting TRS and PERS benefit adjustment into a more comprehensive income tax code revision bill. At this point in time, HB 900, at best, minimally conforms with the Association's policy position regarding retirement benefit taxation.

OCTOBER 1991

MEA-R Newsline

Official Publication of the Montana Education Association Retired Members Program
1232 East Sixth Avenue — Helena, MT 59601 — 1-800-332-2270 or 406-442-4250

October 23, 1991

How does your future look after the new pension tax legislation?

The Montana Legislature — despite vigorous MEA opposition — did enact TRS and PERS public pension taxation last April. Now, it appears that a legal action filed in August by a group of individual pensioners challenging the tax provisions of SB226 as applied to federal service pension recipients might potentially affect both the taxation and benefit adjustment aspects of SB226. No decision from the District Court is anticipated before mid-1992.

While MEA and MEA-R will continue to keep our members informed of developments in the case as they arise, we thought we should refresh everyone's memory on what is at stake. A general description of the tax bill (SB226) prepared by TRS reads:

"Senate Bill 226 provides for the taxation of all pension benefits over $3,600.00. This exemption will be reduced $2.00 for each $1.00 of federal adjusted gross income in excess of $30,000.00. This bill also provides for a statutory appropriation of 2.5% of total benefits. The TRS board will distribute this appropriation in a lump sum payment in May of each year beginning in 1992. Only retirees who are residents of the State of Montana will be eligible to receive this benefit adjustment. This bill also directs the Revenue Oversight Committee to study the taxation of pension benefits and to report their findings and recommendations to the 53rd Legislature."

The tax impacts of SB226 will only be felt by TRS benefit recipients subject to Montana income taxation laws. For those recipients filing Montana tax forms next winter on calendar year 1991 income, SB226 will effectively raise the level of Montana income tax expected of them. The actual increase will vary according to the taxpayer's combined TRS and non-TRS income level. The State of Montana will thus collect these new state revenues during the spring of 1992 based on 1991 taxpayer incomes.

SB226 also provided a continuing general fund statutory appropriation for increasing TRS and PERS benefits by an amount equal to 2.5% of the total amount of benefits paid during the prior year. However, this additional 2.5% or statewide benefit dollars will only be paid to in-state TRS and PERS benefit recipients. Given the current distribution of in-state and out-of-state TRS benefit recipients, the upward adjustment for in-state TRS benefit recipients is likely to approach ~2.9%.

Despite a legal opinion offered by the Montana Legislative Council that this 2.5% is due beginning in June of 1991, the Governor's office has taken the position that SB226 does not mandate, nor will a benefit adjustment be made, until May of 1992. It is anticipated that the adjustment pay-out will take the form of a once a year "13th check."

MEA will continue to watch closely the pension tax case and will participate in the interim Legislative Committee on Retirement issues meetings. You can let MEA know what you would like us to emphasize by contacting Jack Johnson, MEA-R Chairman (1-406-259-5578), or Tom Bilodeau, MEA Research & Retirement Issues Director (1-800-332-2270 or 1-406-442-4250).

Your opinions and recommendations will be forwarded to the MEA Retirement Committee for discussion at its November meeting.

Did You Know?

Since 1976, NEA has had more members serving as delegates to the Democratic and Republican conventions than any other membership organization in the country. — NEA Leader's Reference Book

DATE January 8, 1992

COMMITTEE ON Senate Taxation

SB 1

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
W.T. Whitney	Assn. Mt. Ret. Fed. Emp.	SB 1		✓
Robert E. Ewing		SB 1		✓
Mildred Ewing		SB 1		✓
Bonnie Anderson		SB 1		✓
Hugo [illegible]		SB 1		✓
John M. Dougherty	AMPRE	SB 1	neutral	
George Poston	AMPRE	SB 1		✓
Tony [illegible]	Retired Teachers	SB 1	Neutral	
Tom Schneider	MPEA	SB 1		✓
Ed Sheehy	NARFE	SB 1		✓
[illegible] Kolterman	NARFE	SB 1		
Bob Kolterman	"	"		
Larry Nachtsheim	PERS	SB 1		
Bob [illegible]	D of A	SB 1	✓	
Margaret [illegible]	NARFE	SB 1		✓
Mildred I. Wittman	NARFE	SB 1		✓
Melvin W. Potter	NARFE	SB 1		✓
Marie Cassidy	NARFE	SB 1		✓
Geraldine [illegible]	NARFE	SB 1		✓
Herman Wittman	NARFE	SB 1		✓
TOM BILODEAU	MEA	SB 7		

(Please leave prepared statement with Secretary)