MINUTES

MONTANA SENATE
51st LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, on June 19, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Norman, Senator Eck, Senator Bishop, Senator Halligan, Senator Walker, Senator Harp, Senator Gage, Senator Severson, Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 4

Presentation and Opening Statement by Sponsor:

Senator Meyer, District 17, sponsor, introduced the bill at the request of the Governor. He explained the bill is a pension reform proposal which will treat all pension income the same through a two tiered exemption (see Exhibit #1 for full explanation of bill).

List of Testifying Proponents and What Group they Represent:

Ken Nordtvedt, Director, Department of Revenue
Dick Williams, President, Montana Retired Public Employees Association
Fred Patten, American Association of Retired Persons
Mary Craig, CPA representing Equity in Taxation

List of Testifying Opponents and What Group They Represent:

Gene Huntington, Montana Retired Teachers Association
Tom Schneider, Montana Public Employees Association
Phil Campbell, Montana Education Association

Terri Minnow, Montana Federation of Teachers, Montana Federation of State Employees
Mike Holland, Montana Association of CPAs

Testimony:

Director Nordtvedt, DOR, reviewed the Tier 1 and Tier 2 provisions of the bill in light of the U.S. Supreme Court decision which says however state public employees are taxed must be the same basis for taxation of federal civil service employees. The bill has been expanded to cover other pensions and address the equity situation as broadly as possible. Tier 1 allows for recovery of the previously taxed pension amount in order to avoid double taxation. Tier 2 provides for an across the board exemption of $18,000 as of 1989. This is basically a $12,000 exemption which is inflation indexed. This will mean 99% of the state pensioners will continue to be free of tax on their pensions as has been the policy to date.

Dick Williams, Montana Retired Public Employees Association, said his organization reluctantly supports the bill without a reduction in the $18,000 figure. He said they want the Tier 1 provisions to remain the same. He felt this issue should be part of an interim study and that public employees should remain exempt from tax for the two years the study is being conducted. Action could be taken at the next legislative session which would be better constructed and more comprehensive.

Fred Patton, AARP, expressed support for the bill.

Mary Craig, Equity in Taxation, stated her group wants all retirement pensions treated equally.

Opponents:

Gene Huntington, Montana Retired Teachers Association, said his group is concerned about the approach which all the bills regarding retirement have taken. He said the focus is changed from compensation to a social policy of how we tax. They would like to have the issue of federal retirement addressed separately by revenue oversight or an interim committee.

Tom Schneider, Montana Public Employees Association, said his organization voted unanimously not to support any bill that would tax public retirement systems. He said the bill not only affects those who are currently retired, but those who will be retiring from this point on. He also expressed fears that in the future, when money is short, it will too easy to shift the levels in the legislation and thereby continue to erode the tax free status the Montana public retirees now have.

Phil Campbell, Montana Education Association, agreed with Mr. Schneider's testimony. He pointed out teachers retirement has no inflation factor built in, so when they retire, the level is set. Any change in the tax policy would be very hard on those receiving set pensions.

Terri Minnow, Montana Federation of Teachers and the Montana Federation of State Employees, presented an analysis of the last 17 years of economic indicators to the committee (Exhibit #2). She said they do appreciate the exemption level and the inflation indexing provision in the bill. However, she said the state employees were promised long ago their pensions would not be taxed and that promise should not be broken. Likewise, those public employees who have not yet retired, but were recruited partly on the basis of a tax free retirement, should not be subject to a change in policy.

Mike Holland, Montana Association of CPAs, said they oppose the bill as the computation of returns would be complicated beyond belief. He said it would be easier to tell their clients to go buy an annuity. He urged the committee to find an easier solution.

<u>Questions From Committee Members:</u>

Senator Crippen asked Mr. Nordtvedt to respond to Mr. Holland's remarks.

Mr. Nordvedt said those remarks were a smoke screen and off the wall. This is a very simple formula and saves a great deal of effort. There are two simple divisions: the number of years you paid taxes on employee contributions divided by the number of years you worked.

Senator Eck asked Steve Bender about the age 62 provision.

Mr. Bender, Deputy Director, Department of Revenue, said the intention was to have two pension bills. One, a bare bones bill without the 62 or older language, and the

other exactly as SB 4 which would include the 62 or older and interest and dividends. The additional cost for the interest and dividends would be $4 million per year.

Senator Eck noted Representative Cohen is thinking about a pension proposal. She distributed a copy of the proposal to the committee noting it still needs a lot of data and active participation of the retirees organizations before it can be introduced as a bill (Exhibit #3). She noted Representative Cohen has indicated he is reluctant to request this major a bill during the special session.

Senator Mazurek wondered if there is an age discrimination issue involved in the age 62 provision.

Mr. Nordtvedt said there is already a law on the books which gives a person age 62 or older an $800 per person exemption of interest income as well as other benefits for senior citizens in property taxes, etc.

Senator Halligan expressed a concern about those people who are self employed or who sell their farm or ranch and live their retirement years on the proceeds of the sales.

Senator Gage asked if social security benefits qualify as an annuity.

Director Nordvedt said state law piggy-backs federal law and is subject to tax levels there. It is not intended to be addressed in this bill.

Senator Gage asked if a person exceeds the limits and has to claim his social security, could he use this bill to re-shelter those benefits.

Director Nordtvedt said the bill is not intended to offer that option. It would create some real complications and he suggested there be specific language put in the bill to make sure it does not happen. He also noted the $800 exemption that is in current law for retirees over age 62 would be dropped if SB 4 is enacted as that amount and more would be included in the exemption level in the bill.

Senator Eck said her notes indicate it is possible to exempt up to $26,000 of retirement income as a result of this bill. She asked Director Nordtvedt to explain that to the committee.

Director Nordtvedt said if you were a state employee who retired in 1985 all your contributions would have been taxed through your whole career. You would be able to take 35% of your pension tax free as a return of your contribution . Then you would have the $18,000 general exemption which would add up to around $26,000 to $27,000. He said by the time you get to that level, you have included over 99% of the state retirees.

Senator Eck indicated she would like to have data re the provision of increasing retiree pensions and employer contributions to a level which would compensate for the tax liability.

Closing by Sponsor:

Senator Meyer closed by saying SB 4 does give some guidance in the area of taxation of pensions and perhaps it does need some modifications. He felt it does represent a basically fair and equitable way of taxing pensions and urged the committee's support.

Senator Brown announced the committee would take a break and reconvene to take action on the bill at 1:30.pm.

DISPOSITION OF SENATE BILL 4

Discussion:

Senator Brown called the meeting back to order at 1:36 p.m. He presented the committee with a list of proposed questions for discussion for the afternoon session (Exhibit #4).

Senator Gage commented in reference to question #1 (Ex. #4) that he feels there is no way to be fair and equitable to everyone within the current revenue limits unless we exempt everyone. The question is are we interested in being fair and equitable to the largest number of people with particular attention being paid to state employees . He continued by saying we will have to reach a point sometime where we treat the most people as fairly and equitably as possible.

Senator Halligan said he felt we need to have 100% held harmless for the next two years and do an interim study to determine the right way to approach this whole problem both from the aspect of fairness and equity to the federal and state retirees and the revenue impacts that those decisions would engender.

Senator Severson asked if the retirement exemption is specifically stated in the contract when a state employee is hired.

Senator Halligan said he thinks if it is in the personnel plan it is part of the implied contract.

Senator Eck asked if we hold harmless the people receiving pensions and increase their pensions, will there be a legal problem or challenge. To what extent is this open to negotiation?

Leo Berry replied Senator Halligan is right. The retirement exemption is in the employee handbook and the Court has ruled that then makes it part of the contract. He answered Senator Eck's question by saying the Retired Public Employees Association does not plan a challenge but they have not addressed the specifics she proposed. He added they reluctantly support the bill as it stands.

<u>Amendments and Votes:</u>

Senator Crippen MOVED to retain the public employees at 100% which would bring the equivalent of bringing the federal retirees to 100%, and further, set an exemption level of $18,000 for private pensions and for dividend and interest at age 62.

Senator Mazurek said the effect will be to give a high paid federal pensioner a huge exemption and yet $18,000 would cover virtually every state pension. The moral commitment we are wrestling with is the state employee but at the same time we are trying to balance for everyone. If we are going with a proposal like this, we had better go with the bill as is.

Senator Crippen says the way he reads the Supreme Court decision whatever you give to state you are giving to federal retirees.

Senator Crippen's motion FAILED on a roll call vote (Exhibit #5).

Senator Norman MOVED the bill be amended to reflect exempting all public retirement income up to $18,000, and exempt private retirement income as defined in SB 4 up to $18,000 at age 62.

Senator Bishop asked how this is all going to be funded.

Senator Harp replied with the $41 million the LFA says we will have in extra revenue from their calculations for the biennium.

Senator Severson said the whole concept of the bill is wrong. Age should not determine whether or not you pay taxes.

Senator Halligan there is a real problem with the definition of annuity and the disparity of treatment of people under age 62.

Senator Norman's motion CARRIED on a roll call vote (Exhibit #6).

Senator Crippen MOVED to amend the bill with a sunset provision of December 31, 1990.

The motion CARRIED with Senator Hager voting no.

Senator Gage MOVED to amend subsection a, page 6, following "annuity" by inserting "except social security and railroad retirement".

The motion CARRIED unanimously.

Senator Gage MOVED to eliminate the $800 interest exclusion by striking subsection b, page 8, line 23.

The motion CARRIED with Senator Halligan voting no.

Recommendation and Vote:

Senator Gage MOVED SB 4 DO PASS AS AMENDED.

The motion FAILED on a roll call vote (Exhibit #6).

Senator Halligan MOVED to adopt the amendments (Exhibit #7) which strike everything after the enacting clause and exempts federal people for the next year and a half. It has a $2.8 million dollar impact and includes an interim study.

Senator Norman said leaving the federal lid off, which is enormous, and the state lid off, which is "piddly", is NOT treating them the same. This is what the Supreme Court decision mandates and these amendments do not do it.

Senator Brown said these amendments extend the policy of not taxing state and local retiree income to federal retirement income.

The motion FAILED on a roll call vote (Exhibit #8).

Senator Mazurek MOVED SB 4 DO PASS AS AMENDED.

The motion CARRIED on a roll call vote.

ADJOURNMENT

Adjournment At: 2:30 p.m.

Bob Brown

SENATOR BOB BROWN, Chairman

BB/jdr
MIN619.jdr

ROLL CALL

TAXATION COMMITTEE

Special 51st LEGISLATIVE SESSION -- 1989 Date 6/19/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SB 4

EXHIBIT NO. 1
DATE 6/19/89
BILL NO. SB 4

Explanation of Governor's Pension Reform Bill

LC 7

The Governor's pension reform proposal will create a fair and equitable system of taxing pension income. All pension income -- federal, state and private-- is treated the same under the proposal.

Equitable tax treatment is provided through a two-tiered pension exemption (Section 1 of the bill).

Tier 1 Exemption - The tier 1 exemption allows a taxpayer to exclude a fraction of their pension income from taxation. The fraction was determined to allow a taxpayer to "recover" that portion of his pension that was previously taxed by the state of Montana.

This tier prevents the double taxation of pension income. Without the provision, employee contributions to their pension that were taxed on their way into the fund will be taxed again as they are withdrawn.

In addition, this provision prevents the inferior tax treatment of Montanans relative to pensioners who move to Montana after retirement because a portion of a Montanan's pension will have been previously taxed.

Tier 2 Exemption -- Tier 2 provides a second exemption in addition to the tier 1 exemption. It provides a $12,000 base level exemption that can be claimed against any pension income -- federal, state or private (not including interest and dividends). The $12,000 is to be adjusted for inflation and the level for tax year 1989 will be about $18,000.

The tier two exemption, since it is tied to inflation, will increase each year to reflect changes in price levels as measured by the consumer price index.

This exemption treats all pension income the same and results in the equitable treatment of retirement income.

Fiscal Impact

The proposal will reduce income tax collections by an estimated $4 million per year. However, $2.6 million of this amount will be lost anyway because of the U.S. Supreme Court decision in Davis v Michigan. Therefore, the true impact of the proposal is a net reduction of revenues of $1.4 million per year.

SENATE TAXATION
EXHIBIT NO. 1
DATE 6/19/89
BILL NO. SB4

Other Considerations

Contractual Obligations

The pension laws of Montana provide for the exemption of state and local pension plans from state taxation. The exemption is part of the employment contract with the covered employees. Changes in the taxation of state pensions, therefore, will break these contracts and litigation can be expected.

The Governor's proposal will result in the taxation of few current state or local retirees (about 100) and therefore does not create the contractual questions that are inherent in other reform proposals designed to minimize the state revenue loss. Under our proposal, a taxpayer must receive pension income in excess of roughly $26,000 before any portion is subject to tax.

Retirees Who Don't Receive "Pensions"

A criticism of the proposal is that it does not treat retirees who are living off their savings the same as members of a formal pension plan. We recognize and agree with this criticism.

Therefore, as part of the Governor's general tax reform proposal, we propose to modify the tier two exemption to allow taxpayers aged 62 or over to include their interest and dividend income within the exemption limit.

This feature will cost an additional $4 million per year and is finance by sales tax revenues.

SENATE TAXATION
EXHIBIT NO. 2
DATE 4/19/89
BILL NO. SJR 4

SELECTED ECONOMIC INDICATORS

MONTANA

PERCENT CHANGE 1970 - 1987

INDICATOR	% CHANGE
State govt. genl. rev. #	383
Total personal income	296
Expend. on higher ed.	253
Per capita pers. income	247
Consumer prices	189
Avg. faculty salary all ranks	138
Avg. state employee ##	177

percent change is for the period 1970-1986
#excludes instruction

Senate Taxation
#3
DATE 6/10/89
BILL NO. SB 4

Representative Cohen's Pension Proposal

Key Features

Under this Davis proposal, equity in the taxation of federal retirement benefits is created by changing the taxation of state and local employees so they are taxed the same as federal retirees. This is accomplished by:

1) Subjecting state and local retirees to taxation, but allow them to exclude up to $3,600 in retirement benefits from taxation.

2) Increasing benefits to current and future retirees to compensate for the tax on their benefits.

Fiscal Impact

Revenue Gains:

$3,600 Exemption for State and Local Government Retirees	$1.5 million
Ability to Tax Federal Retirees under $3,600 Exclusion	$2.6 million
Total	$4.1 million

Cost of Increased Benefits:

Across-the-Board Benefit Increase for Current State and Local Government Retirees (5%* of FY 88 benefits paid totaling $99.95 million)	$5.0 million
Increased Employer Contribution for Current Employees (2% increase in total contribution)	To Be Determined By Actuary
Total	$5.0 million +

Net Change in Revenues and Expenditures	($0.9 million) - increased employer contribution

* State retirement benefits in excess of $3,600 will face an average marginal tax rate of 4.82% based on Department of Revenue analysis.

1. Does the legislature have a firm commitment to continue the policy of not taxing state retirement income?

2. A limit of $18,000 on retirement income below which no tax could be imposed would prevent the pensions of most state retirees from being taxed. Would such a limitation be sufficient to keep the commitment Montana may have to state retirees?

3. In the interest of equity, should the legislature expand the retirement income exemption policy to include private pension income?

SENATE TAXATION
EXHIBIT NO. 5
DATE 6/19/89
BILL NO. SB 4

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 6/19/89 Senate Bill No. 4 Time 2:10

NAME	YES	NO
SENATOR BROWN		X
SENATOR BISHOP		X
SENATOR CRIPPEN	X	
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER		X
SENATOR HALLIGAN		X
SENATOR HARP	X	
SENATOR MAZUREK		X
SENATOR NORMAN		X
SENATOR SEVERSON		X
SENATOR WALKER		X

Jill Rohyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: by Senator Crippen to retain all public employees at a 100% exemption and set an $18,000 exemption for private annuities and dividend and interest.

Failed

SENATE TAXATION
EXHIBIT NO. 6
DATE 6/19/89
BILL NO. SB 4

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 6/19/89 Senate Bill No. 4 Time 2:33

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP	X	
SENATOR CRIPPEN	X	
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP		X
SENATOR MAZUREK	X	
SENATOR NORMAN	X	
SENATOR SEVERSON	X	
SENATOR WALKER		X

Gill Rohyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: by Senator Norman exempting all public retirement income up to $18,000 and exempting private retirement income as defined in SB4 up to $18,000 at age 62.

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EXHIBIT NO. 6
DATE 6/19/89
BILL NO. SB4

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 6/19/89 Senate Bill No. 4 Time 2:32

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP	X	
SENATOR CRIPPEN	X	
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP		X
SENATOR MAZUREK		X
SENATOR NORMAN	X	
SENATOR SEVERSON		X
SENATOR WALKER		X

Jill Rohyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: Sen Senator Gage that SB 4 Do Pass As Amended

Failed

1989

SENATE TAXATION
EXHIBIT NO. 7
DATE 6/19/89
BILL NO. SB 4

Amendments to Senate Bill No. 4
First Reading Copy

Requested by Senator Halligan
For the Committee on Taxation

Prepared by Jeff Martin
June 19, 1989

1. Title, lines 5 through 13.
Following: "ACT"
Strike: remainder of line 5 through "ANNUITY" on line 13

2. Title, lines 13 and 14.
Following: "TAXATION"
Strike: remainder of 13 through "INFLATION" on line 14
Insert: "BENEFITS RECEIVED FROM FEDERAL RETIREMENT; PROVIDING FOR A LEGISLATIVE OVERSIGHT COMMITTEE ON RETIREMENT TO DIRECT A STUDY ON THE TAXATION TREATMENT OF PUBLIC AND PRIVATE RETIREMENT BENEFITS"

3. Title, line 15.
Strike: "15-30-101,"

4. Title, lines 15 through 17.
Following: "15-30-136,"
Strike: "19-3-105" through "19-21-212" on line 17

5. Title, line 20.
Strike: "AND"

6. Title, line 21.
Following: "DATE"
Insert: "AND A TERMINATION DATE"

7. Pages 1 through 25.
Strike: everything after the enacting clause

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

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

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

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability;

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

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DRAFT

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

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

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

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

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

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

~~(ii)~~ (i) under the public employee retirement laws of a state other than Montana; or

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

(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;

(e) all benefits paid under The Public Employees' Retirement System Act which are specified as exempt from taxation by 19-3-105;

(f) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;

(g) all Montana income tax refunds or credits thereof;

(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;

(i) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005;

(j) all benefits received under the Federal Employees' retirement act;

~~(j)~~ (k) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

~~(k)~~ (l) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

~~(l)~~ (m) all benefits received under the workers' compensation laws;

~~(m)~~ (n) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

~~(n)~~ (o) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212; and

~~(o)~~ (p) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange".

(3) In the case of a shareholder of a corporation with

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respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

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

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

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

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

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(8) A person receiving benefits described in subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than $3,600, in which case the person may combine benefits to exclude up to a total of $3,600 from adjusted gross income. (Subsection (2)(k) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)

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

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

(a) dividends;

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

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

(ii) a school district; or

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

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

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

(f) gross profit from trade or business; and

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

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

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

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

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

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

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

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

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

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

~~(i) as federal employees' retirement;~~

~~(ii)~~(i) as retirement from public employment in a state other than Montana; or

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

(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;

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

(k) all benefits paid under the Montana highway patrol officers' retirement system that are specified as exempt from taxation by 19-6-705;

(l) Montana income tax refunds or credits thereof;

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

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

(p) all benefits received as federal employees' retirement.

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

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

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

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

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

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

(6) A trust or estate excluding benefits under subsections

SENATE TAXATION
EXHIBIT NO. 7
DATE 6/19/89
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(2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than $3,600, in which case the trust or estate may combine benefits to exclude up to a total of $3,600 from net income."

DRAFT

NEW SECTION. Section 3. Legislative interim study committee on taxation of retirement benefits.

NEW SECTION. Section 4. Effective dates -- retroactive applicability.

NEW SECTION. **Section 5. Termination.** [This act] terminates December 31, 1990.

SENATE TAXATION
EXHIBIT NO. 8
DATE 6/19/89
BILL NO. SB 4

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 6/19/89 Senate Bill No. 4 Time 2:36

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP		X
SENATOR CRIPPEN		X
SENATOR ECK		X
SENATOR GAGE		X
SENATOR HAGER		X
SENATOR HALLIGAN	X	
SENATOR HARP		X
SENATOR MAZUREK		X
SENATOR NORMAN		X
SENATOR SEVERSON		X
SENATOR WALKER	X	

Jill Rohyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: by Senator Halligan to adopt amendments - Exhibit # 7.

Failed

SENATE TAXATION
EXHIBIT NO. 9
DATE 6/19/89
BILL NO. SB4

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 6/19/89 Senate Bill No. 4 Time 7:37

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP	X	
SENATOR CRIPPEN	X	
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP		X
SENATOR MAZUREK	X	
SENATOR NORMAN	X	
SENATOR SEVERSON		X
SENATOR WALKER		X

Bill Rohyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: By Senator Mazurek that SB4 Do Pass As Amended

Carried

1989

SB 4
6-19-89

SB 4 with Senate Tax Amendments

Fiscal Impact

The proposal as amended will reduced income tax collections by an estimated $6.1 million per year. This estimate includes $2.6 million that will be lost anyway because of the U.S. Supreme Court decision in Davis v Michigan. Therefore, the true impact of the proposal is a net reduction of revenues of $3.5 million per year.

2.6
2.6
5.2 Simply to comply

6.1
6.1
12.2 proposal as amended

DATE 6/19/84

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppo
Rudolf E. Williams	AMRPE	SB4	x	
Alve Thomas	Retired Teachers	SB4		X
Gene Huntington	Retired Teachers	SB4		X
Terry Minow	MT Fed of Teachers	SB4		X
Deborah J. Schlesinger	Mt Library Assn.			
JUDITH CARLSON	E.T.	SB4		
Fred Patten	AARP	SB4	X	
Owen Warren	AARP	SB4	X	
Tom Schneider	MPEA			X
Mary L. Craig	Equity in Taxation	SB 4		
[illegible]	MEA	SB4		X

(Please leave prepared statement with Secretary)