MINUTES

MONTANA SENATE
51st LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on July 6, 1989, at 8:00 a.m., Room 413-15, Capitol

ROLL CALL

Members Present: Senator Bob Brown, Senator Al Bishop, Senator Bruce Crippen, Senator Dorothy Eck, Senator Del Gage, Senator Tom Hager, Senator Mike Halligan, Senator Joe Mazurek, Senator Bill Norman, Senator Elmer Severson, Senator Mike Walker

Members Excused: Senator John Harp

Members Absent: None

Staff Present: Jeff Martin

HEARING ON HB 5

Presentation and Opening Statement by Sponsor:

Representative Bernie Swift indicated that the bill is entitled "An act to provide an exemption of $12,000 from taxation of benefits from federal, state and private retirement, annuity, pension, and endowment plans or systems. He pointed out that, in addition, the House has added a study to the bill for the interim period, that they provided $10,000 for carrying it out and asked the Revenue Oversight Committee to conduct the study. He noted that he has often heard it said, somewhere, that to do nothing is to set up a study, and indicated he hopes that is not the case, that he would like them to look into this, really analyze it in depth to see if it really does what he thinks it does, and what he wants it to do, objectively.

Representative Swift reported that he set up the $12,000 figure based on the information distributed to the committee members, a copy of which is attached as Exhibit 1, adding that he found that somewhere between $5,500 and $9,000 is about where the state public average retirement or annuity falls, that the federal retirement averages about $12,000, and the privates are somewhere between $5,00 and $6,000. He pointed out that, if they take that under consideration in relation to what tax is paid, that would allow a state and public employee to be paid $16,000 to $17,000 in annuity, and maybe pay $20 to $30 tax, after exemptions and deductions. He indicated that he thinks the $12,000 level hits about all three entities reasonably and, from what he has heard in the discussions and feedback to date, that lets out most state retirees from paying either minimal or no taxes. He added that he thinks about 85% will fall under the umbrella of $12,000 without paying the tax.

Representative Swift pointed out that the only new things are the addition of a study, and the fact that funds have been approved for that in the House, as it passed out of there last week. He noted that we are presently in court, a suit has been filed on the basis of Davis vs. Michigan, that it does have ramifications and retroactivity, and this bill is only for two years, that Sections 1-14 are to terminate December 31, 1990 and the bill itself sunsets June 30, 1991. He indicated they do not need to include privates at this time, but that his objective is to get it in now because, regardless of what happens, they will probably face that in the future, and he thinks they need to address that question at this time. He further indicated that he does not want any retroactivity payments, if they can avoid it, and he thinks, if they take some action now, they may be able to hold that off.

List of Testifying Proponents and What Group they Represent:

Ken Nordtvedt, Director, Department of Revenue
Mary Craig, Equity in Taxation
Lou Marquardt, Equity in Taxation
Lloyd E. Lamb, Sr., Equity in Taxation
Judy Carlson, representing Norris Mabry, Equity in Taxation

Testimony:

Mr. Nordtvedt reported that the administration feels the number one priority is to maintain their word and their credibility with their public employees and, therefore, whatever outcome the committee chooses to make on the issue raised by the Supreme Court's Davis vs. Michigan decision should end up so that the state's public employees retain their tax-free status on their pensions, that this has been promised to them over a series of many decades and, although it is an open question whether it is a legal commitment, it sure has been a moral commitment of the State to its employees for many years.

Mr. Nordtvedt stated that they would support this bill with two amendments, and distributed copies of the proposed amendments to the committee members, a copy of which is attached as Exhibit 2. He indicated they put the bill back into the form which was the administration's original intent in the Senate bill heard earlier, that they do two things; they subject the $12,000 figure to the inflation indexing factor, which makes it an $18,000 across the board exemption for the 1989 year and, in future years, that exemption would grow at the cost of living. He added that the second part of the amendment is to have a recovery clause for any employees who have previously paid taxes on their contributions to their Montana pension funds, whatever those pension funds may be.

He pointed out that, without the recovery clause for previous taxes paid, they would essentially be saying to many pensioners that they paid the taxes on their employee contributions, as they went into the pension fund, and may be taxed a second time on those earnings, when they take the money out in the form of a pension. He indicated this exclusion is calculated using actuarial formulas and the contribution rates in the two main pension funds, PERS and TRS, and typical years of service. He reported that tier 1 exemptions would, in future years, slowly be phased out because, as of 1985, they started exempting employee contributions from taxation, and they are only talking about those employee contributions made prior to 1985, which were fully taxed by the State of Montana. He added that would allow them, basically, to recover, tax-free, that portion of their pensions supported from those contributions.

Mr. Nordtvedt indicated that, if the committee accepts their amendments, again noting that these amendments will put the bill back in the form the administration originally intended, the fiscal impact of this bill would be changed to $4 million per year and, of that $4 million per year of impact, $2.6 million is the bottom-line fiscal impact of coming to terms with this U. S. Supreme Court Davis vs. Michigan decision, which says, if state employees have tax-free pensions, federal civil service employees must have the same tax status. He indicated that, by itself, would cost $2.6 million and the additional $1.4 million is to include private pensions in the formula, as well. He further indicated that, if the committee accepts their amendments, their calculations show virtually ninety-nine point some percent of all the present-day state public retirement pension income would maintain its tax-free status, so that is what went in to setting these numbers. He then added that something between 99% and 100% of the actual dollars of pensions being paid out of the state public systems would maintain their tax-free status under a combination of the tier 1 and tier 2 exemptions, and it would be their guess that the high rate of exclusion would be maintained in future years because of the inflation indexing factor put in the bill.

Mr. Nordtvedt indicated that Representative Swift said the average pension today is in the $6,000 to $9,000 range, and pointed out that is heavily weighted by people who retired many years ago, that these pensions have been locked in by the historic dates of their retirement, pretty much, but that all the new retirees are retiring with significantly higher pensions, that the average of the 300 or so who retired in PERS or TRS last year is a much higher average. He then indicated that one of the gentlemen representing the pension groups would know the average of people who retired in the most recent year, so that the committee can get an idea of how misleading that average figure of $6,000 to $9,000 was, which is heavily weighted by people who retired in the distant past.

Mr. Nordtvedt stated that the administration feels very strongly that whatever comes out of this, they must protect those pension exemptions granted to their own public employees, that they can not break their word in mid-stream, and they believe these amendments would put this bill into an acceptable form which would virtually accomplish that task.

Testimony:

Ms. Craig reported that she is the former director of Revenue, she is a CPA, and is a lobbyist for ET, and indicated they appreciate the time the committee has taken in the last couple of weeks to listen to them, and hear their cause. She noted that a man from the south said "You know, sometimes it's hard to tell the pepper from the fly specks", and indicated that, hopefully, she can help the committee members look at that. Ms. Craig distributed materials to the committee, a copy of which is attached as Exhibit 4, and displayed a chart with the same information.

Ms. Craig reported that, during this process, they have heard people say "Let's just study this, and leave it alone and not do anything", and pointed out the "Leave It Alone Do Nothing" scenario (page 1 of Exhibit 4). She noted these are people who are in her office, basically, that she is an accountant and sees retirees who are receiving remuneration from past services performed. Ms. Craig then explained the figures contained on the chart, which are also included in the materials distributed to the committee.

Ms. Craig indicated they would appreciate it if the committee would consider passing HB5 because it does treat all the citizens of Montana in an equal manner.

Testimony:

Mr. Marquardt's written testimony is attached as Exhibit 5.

Testimony:

Mr. Lamb reported he graduated from Butte High School in 1936, that he was born in Helena, but had to move with the fellow who was buying his meals to Butte. He added that, right after that, he started working for $1 a day, paying his own way, and reported that, in three or four years, he was making almost $4 a day. He then indicated he got a call from the President and all his fellow citizens, so he departed for about four years, that he started out at $21 a day once a month, which was not too bad, and, when he got home, he was able to pay taxes to Uncle Sam and a few other places for what he did in the service. He then reported he went to work for a private utility for $8.80 a day, noting that he had a wife and one son, and paid his whole way on $8.80 a day. He stated that he started out the hard way, that he has lived in Montana all his life, except the four years in the service, that he built a house in Helena, and even went out an logged lumber for his house. He added that he owns his house, and has paid property taxes on it since 1948.

Mr. Lamb indicated that he is out of the job market, that Unemployment Compensation does not have to worry about him, that he has never gone to a county board for food stamps, or any type of welfare, noting that, on one leave in the service, he got 20 gallons of gas from the ration board. He added he thinks that is the only thing ever donated to him from any government agency. He stated that he is proud to live in Montana, he pays taxes here, that loves the free air, and loves the community he lives in, noting that he may not care too much for the eastern part of the state, but in Miles City or Glendive, it is beautiful, that the whole state is beautiful, and he is proud to live here. He indicated the only problem he has is that, while he is living here, he is a second class citizen. He further indicated he had no complaints about that until Michigan and Davis came up, and now he hates to pull that wagon along, and pay all the state taxes just to help the economy out, that he spends approximately $25,000 a year in this community, and he might move. He stated that he does not get a lot of pension, that he has saved a little money along the way, which is why he is still paying taxes, because he is paying on dividends and interest earned.

Mr. Lamb indicated he thinks Representative Swift has a good bill, that there is a sunset clause in it, noting that, as he understands it, they have been doing taxation studies for six years, and this is one which will provide two years of taxation study. He indicated he thinks the bill should be left alone, just as it is, make another study out of it. He noted that Representative Swift has worked real hard on this bill, and he thinks it should be given consideration the way it stands.

Testimony:

Ms. Carlson read written testimony provided by Norris Mabry, a copy of which is attached as Exhibit 6.

Ms. Carlson then stated that this bill is simple, it provides equality, and basically can be done at no cost to the State, meeting all the objections they have heard throughout the discussions they have had.

List of Testifying Opponents and What Group They Represent:

Gene Huntington, Retired Teachers
Leo Berry, Association of Montana Retired Public Employees
Tom Schneider, Montana Public Employees Association
Eric Feaver, Montana Education Association
Terry Minow, Montana Federation of Teachers; Montana Federation of State Employees
Vern Erickson, Montana State Firemans' Association
Alve Thomas, President, Retired Teachers' Association
Ed Sheehy, representing himself
Owen Warren, American Association of Retired People
David Senn, Executive Secretary, Teachers Retirement Board
Larry Nachtsheim, Administrator, Public Employees' Retirement Division

Testimony:

Mr. Huntington stated that they appear in opposition to the bill, and indicated that, from the beginning, they have indicated to this committee they think a deliberate study is needed of the problem, that there needs to be some eventual solution but, in that eventual solution, consideration needs to be given to the unique relationship teachers and public employee retirees have with the state, which is an employer/employee relationship. He pointed out that the committee has heard a lot from the proponents about equity, that they tend to cast the problem as an issue of the state and its taxpayers, and indicated they are reluctant to have their status changed in that relationship from one of being considered an employee to that of a taxpayer, and he thinks the nature of that relationship, as reflected in this bill as a sunset provision, is that the new relationship becomes very impermanent compared to the kind of relationship they have had over the years.

Mr. Huntington indicated he thinks they should consider this and, if there is a study to consider it, they need to recognize that the State has made special provisions in recognizing its retired employees, much as many private employers do with their employees. He reported that, as they have tried to look at ways this problem could be solved and tried to look at different kinds of benefits, one of the things which has been considered was health insurance, and they find many people have health insurance from their private employer, people who were in the private sector and retired.

Mr. Huntington indicated they have a different issue here, than considering retired public employees as just taxpayers, that they have special status and have been given that in little booklets which promised them retirement benefits, when they joined the system. He stated that HB5 would affect retired teachers, that approximately 18% of the retired teachers have incomes which go above the level specified in the bill. He indicated they are not here to say do nothing, that they are here to say it is a very complex problem, and probably does not lend itself to simply solutions. He further indicated that retirement systems are complex, there have been changes, as they heard in the amendments from the Department of Revenue, in the treatment of income, over the years, and it is something that is going to take time, and is going to take the involvement of the retirement system employees, the agencies which administer the retirement benefits, as well as the beneficiaries. He added that they think there needs to be some provision made for the fiscal note, both in terms of what it estimates as the revenue impacts, as well as the cost of making the changes in the system.

Mr. Huntington indicated their position is that they do not see the urgency of passing broad legislation for tax relief for the elderly or retired, or for pensions, whatever the point of the bill would be, that they see the need to develop, in a very deliberate way, a policy which will be the best for the taxpayers, but also will have the least chance of creating litigation, and also creating the least problems for those people charged with administering the retirement system.

Testimony:

Mr. Berry indicated they have not had an opportunity to see the amendments offered by Mr. Nordtvedt however, as the committee members may or may not recall, the Association supported Senator Meyer's bill, and the closer these amendments can bring this bill to that bill could change the Association's position on this particular piece of legislation. He stated that he thinks that is indicative of the Association's position, that it is not one of do nothing, that the Association did support Senator Meyer's bill, and he thinks it is unfair to characterize those people who would like to see a study in the interim as supporting a do nothing position.

Mr. Berry indicated that he has been told by supporters of this bill that the impact to the public retirees will be minimal because the average public employee has a retirement pension of about $400 a month, or $4,800 per year. He noted that is true, that Representative Swift is absolutely right, and the vast majority of the public retirees, although it is different for teachers, will not be affected by this bill because they will continue to be exempt from taxation. He indicated it has been characterized by some people that the public retirees are being greedy, and he thinks that is an unfair characterization, also, of the position.

Mr. Berry reported that 45 years ago, the State of Montana made a policy decision to use its tax policy as part of its employment relationship with its employees and that now people are saying that was a poor decision, primarily because of the Davis case, noting that, if they did not have the Davis case, they would not have near the impetus to try to do something during this special session. He indicated that, because of that case, they are now saying that policy decision made 45 years ago is wrong, and they want to change that. He noted that the Association of Retired Public Employees says fine, if you no longer want to do that, and make that a policy decision, that is a choice the Legislature can make, but, when their retirees entered the system and worked an average of 18.4 years, and retired, they did so under the understanding contained in the laws, contained in the employee handbook, that those pensions would not be subject to taxation. He indicated that, if there were a way to grandfather those people, so that they could now change the policy and make the taxation issue a non-issue in the employment benefit situation, that would be fine, noting that he is not sure how they would structure it, but the Association would certainly support some kind of measure to grandfather those, in particular, who have retired or who have entered the system, a employment relationship with the state under this particular system in effect.

Mr. Berry then pointed out that if, 45 years ago, the State had not made the decision to use its tax policy as part of its benefit plan, maybe they would have a different retirement system, but indicated he can assure the committee that private employers use different mechanisms to attract and retain employees, that many private sector employers, not all, but many of the larger ones, pay for health insurance, that retirees of the utility company get a percentage off their utility bill, and there is a reason for that, that those companies want to attract and retain good people, and that is a benefit those companies use. He then reported that his law firm reacts to the State of Montana, they pay for the retirees' contribution, that the employees do not pay into the retirement plan, and they use the same benefits as the State of Montana, that they do so to compete and retain their employees within their law firm. He added that their employees do not pay the six point whatever it is, that the firm pays 13% of an employee's salary into a self-directed retirement account, and the employee pays 2% of salary into that account, noting they did that in order to remain competitive with the State of Montana.

Mr. Berry indicated that he thinks, if the State wants to change that policy, that is fine but that, somehow, they have to address the situation, that, either from a legal standpoint or a moral standpoint, he thinks the State has an obligation to those people who entered the system. He added that he would offer one suggestion on this particular piece of legislation, and indicated that, first of all, they support the amendments but, secondly, they may be able to devise, during the study period, a different type of benefit for retirees to substitute for the taxes, so that the tax issue is no longer an issue. He noted that perhaps that is picking up part of the health insurance benefits, or perhaps it is something else, but that he would suggest the tax collected on those PERS and TRS benefits, over the $12,000, be placed in a separate account and set aside, noting he does not know what the dollars would be, but it would be less than $1.5 million. He indicated that if, during the interim, they could come up with an alternative to substitute for this tax-exemption benefit, they could utilize that money, somehow, to pay for that additional benefit so public employees are made whole under the system, and the tax issue could, hopefully, be resolved during that study period.

Testimony:

Mr. Schneider stated that it bothers him a great deal that they get categorized as being unfair to the private sector and indicated that, to put it in perspective, they do not pay taxes right now, that everybody else does, and everybody says that equity is you paying taxes and us not paying as much taxes. He noted that is equity for everybody else, but that it really is not equity for the people who are public employees because they do not pay taxes right now, and they do not pay taxes for a lot of reasons, noting he thinks Mr. Berry has expounded on those and he does not want to expound on them again.

Mr. Schneider then indicated that, if they are going to talk fairness and equity, they should talk about all of the things all of the people have, that they have hit on them, but he thinks they have to emphasize some of those. He pointed out that private sector people, and federal sector people in some cases, do not pay in to the retirement system, that their people have always paid into the retirement system. He added that some people get telephone subsidies, some people get power subsidies, and a lot of people get part or all of their health insurance paid, but they do not get that. He then referred to a comment made on the floor of the House about why a teacher from Alaska should have to pay taxes on her retirement when a Montana teacher does not, and pointed out that Alaska pays 100% of their health insurance after they retire, and they only have to work 20 years to get half pay, instead of 30 years to get half pay. He stated that the problem, when they are talking equity, is that they are only talking surface equity, that it is easy to say they will treat everybody the same, $12,000, $3,600, $18,000, and they will have equity, but pointed out that they do not have equity because they are not considering all the factors that go in to having equity. Mr. Schneider pointed out that the State, through its tax policy, determined that its allowance to its employees was not taxing their benefits, that it was done for a reason, and that reason has followed through. He added, because of that, there are a lot of things they have not been able to do.

Mr. Schneider then reminded the committee that, in 1985, a major portion of the state salary package was taking the tax off the retirement contribution by paying the contribution with pre-taxed dollars. He reported that they all stood here and said the major advantage was they would not have to pay state tax on that anymore, that they do not pay it now and, when they retire, the law says they do not pay it then. He indicated they all committed to that, but, now, they are going to come in and say "Sorry folks, you are going to pay it then", and indicated that is not equality, and that is not fairness. He stated that they are not trying to stand on the private sector, and it is fine with him if they are exempted from taxes, that he does not have any problems with that, adding that, if they are excluded after $18,000, they do not care about the private sector, that they are here to talk about the people who are the ones who will end up paying. He stated that everybody else gets a benefit and they lose, that it is just as simple as that, and that is not fair because the commitment was made, and the commitment has been there for 45 years.

Mr. Schneider then indicated he knows it is a difficult situation, that they are in the same situation that the retiree association is in trying to develop an alternative to this, but it can not be done in the special session, and that is the problem they have. He added that they are going to keep working towards that, they will do anything they can, but asked the committee to not say that taxing the public employees creates tax equity, because it does not create tax equity.

Chairman Brown reminded Mr. Schneider that the Department of Revenue presented some amendments which will restore this bill essentially to the Meyer bill, as it was introduced, and asked Mr. Schneider if he has any comments on those.

Mr. Schneider responded that, if the bill is going to pass, they certainly would support the amendments because then it just sets a few people out to the side who are going to be injured by this bill, that it will not be quite as many as they have now, and it will keep it in that relative position down the road by putting in the CPI escalator, but that it still creates an inequity for somebody, and he feels sorry for those somebodies because they retired with a commitment in hand. He added that, yes, they would support the amendments.

Testimony:

Mr. Feaver indicated he would reiterate what Mr. Huntington, Mr. Berry and Mr. Schneider stated, and stated that he hopes the committee will listen to and reflect upon their comments, that he believes they represent the interests of the MEA as well as he could do himself.

Mr. Feaver then referred to the question Chairman Brown asked Mr. Schneider, and indicated that, if this bill is for certain going to pass, hopefully it will pass with the amendments provided by the director of the Department of Revenue, Ken Nordtvedt, noting that he is sure it will warm the cockles of his heart that they would agree to the amendments he has proposed to this piece of legislation. He stated that it is important to reflect on the moral obligation, noting Mr. Nordtvedt did speak to that obligation, that this state made to its public and school employees before he was born, and that one of the first lessons he learned when he began to be interested in advocacy, and to be a part of MEA leadership, was that employee retirement benefits for teachers and school employees shall not be taxed, that it was almost like the first commandment of the MEA, and it is with great, great reluctance that they would support, even with the amendments proposed by Mr. Nordtvedt, anything that would in any way deprive those people who have had a tax-free benefit for these many years on which their very retirement system was in part based. He added that, hopefully, they will slow down just a bit on this and, if they must pass the bill, look at Mr. Nordtvedt's proposal as part of that piece of legislation.

Testimony:

Ms. Minow stated that she appears in opposition to the taxation of the pensions of retired Montana teachers and public employees. She indicated the committee members have heard about the promise, and that she is very concerned about this bill as a possible breach of contract, and stated that, for public employee retirees, this bill changes their compensation, with no negotiations, with no trade-offs for giving up that tax-free status. She added that, for current employees, collective bargaining agreements most often reference retirement statutes, and she thinks there is a strong possibility of grievances, if this bill does pass. She indicated that, once again, there are no negotiations for public employees in order for them to be made whole under the provisions of this bill.

Ms. Minow then reported that, as the committee members know, pay in the State of Montana is already a problem, that the faculty at the University of Montana is the lowest paid of Ph.D. granting institutions in the nation, that they are 50th. She added that they can not find deans at the school for the deaf and blind, that positions go open, often, for over a year. She then reported that teachers are 41st in the nation, in terms of pay, and retirement benefits are a factor in recruitment of state employees, teachers, faculty, city and county employees, and this bill will negatively affect the state's recruitment opportunities.

She stated that they urge that this bill not pass, and that the practice of negotiations begin with retirees and current public employees adding that, in that process of negotiations, perhaps a settlement involving automatic cost of living increases and/or partial payment of insurance premiums could be traded for taxing retirement income like any other income. She added that they do support Mr. Nordtvedt's amendments, if this bill passes.

Testimony:

Mr. Erickson stated that they would oppose the bill in its current form, and would encourage the committee to consider the amendments presented by the administration.

Testimony:

Mr. Thomas indicated many of their points have been covered, and reported that he was in the system for 40 years that, after WWII, he started teaching in Montana in 1946 and, when he started, he received a little booklet that said his retirement would be tax-free. He noted that, if he had bought a municipal bond at that time, which received less interest than another bond and after 40 years, when he received it, someone said they had changed the rules, that now he is going to pay a tax on it, he would have thought that would be unfair. He stated that it is his contention they were promised their benefit would not be taxed, and he would hope the committee would continue that.

Testimony:

Mr. Sheehy reported he is a retired federal employee, and indicated that he hates to differ with his friend Bernie Swift who is also a member of their organization, but he believes they made a mistake when they went to the legislature one time before, and they are making the same mistake again. He reported that they received a $3,600 exemption from the State Legislature, but failed to see that there was a Social Security offset built into that, a dollar-for-dollar Social Security offset. He stated that, if they are going to give that $12,000 exemption, he believes they should also have a Social Security offset simply to recognize that a good many federal retirees do not have Social Security, and that the federal government and the state, both, tax Social Security differently.

Mr. Sheehy noted that he did not propose to even speak at these hearings because he do this as a direct attack upon state employees, state retirees, that it has bothered him from the beginning, and he thinks they owe something to those people. He suggested that they wait two years, see what they have to do for their own employees but, if they do something, remember there are people who do not receive Social Security and, if they are talking about equity, they should recognize that fact.

Testimony:

Mr. Warren reported that he is a member of the AARP state legislative committee, and that this bill is not one they favor, that they are of the opinion it should be fair and equitable, and their 100,000 members in the State of Montana do not agree with this bill.

Testimony:

Mr. Senn indicated he would like to make a couple of points regarding the administration of this bill, or any other bill to tax retirement benefits. He pointed out that the fiscal note, as prepared, requires some administrative costs to gear up to report to the members of the system the taxable amount of their benefits, and to report this information to the Department of Administration. He encouraged the committee to amend the bill to include an appropriation to the Teachers' Retirement System, noting that Mr. Larry Nachtsheim of the Public Employees will also tell the committee they need the same type of appropriation.

Mr. Senn pointed out that 18% of the current retirees of the Teachers' Retirement System will be taxed by this proposal, and that of those members who are retiring July 1 of this year, at the end of the 1988-89 school year, almost 50% will be subject to taxation, that their average benefit in the Teachers' Retirement System, because of longevity, is almost $13,000 a year, noting that, as the committee members know, teachers are not getting great salaries. He added that, if they stay in Montana, and stay with the Teacher's Retirement System, the average person has over 25 years service in the Teachers' Retirement System when they retire.

Mr. Senn then pointed out that there is a technical problem with this bill, which is not in the fiscal note. He indicated that, if the committee will look at the statutes governing teachers' retirement, and all the public employee retirement systems, they will note that, in 1985, when they went to the employer pick-up plan allowing tax deferral on the contributions made to the retirement systems, they said that is fine for everybody that retires, but not for those that withdraw it in a lump-sum payment, that they will pay taxes only on those contributions they deferred. He noted they still paid no taxes on the interest, and this bill continues that partial exemption for refunds, that they will not pay taxes on the refunds. He indicated he does not know if that was intended, or if it was an oversight in drafting the bill, but that he thinks it is something which needs to be considered. He added that there are many things which need to be considered, and a study is the best part of this bill, that they encourage this study, and also would support the amendments offered by Mr. Nordtvedt, if something has to be done.

Testimony:

Mr. Nachtsheim reported that the Public Employees' Retirement Division opposes this bill as it does reduce the benefits. He reported that he also has a concern about the administrative expenses which would be required to implement this bill. He added that, if the committee should see fit to move this bill, they would support the amendments offered by Mr. Nordtvedt.

Questions From Committee Members:

Q. Senator Eck indicated they have had a lot of confusing fiscal information on this bill, that the bill the administration brought in was basically the same at $8 million, and asked Mr. Nordtvedt what was the extra $4 million.

A. Mr. Nordtvedt responded that it was to exempt interest and dividends to people without pensions, and was erroneously put in the bill, that they had intended to have that a separate bill as part of the general sales tax reform package, and the drafter combined it with their basic bill. He explained that their basic bill, which is Representative Swift's bill with the suggested amendments he distributed to the committee today, would cost $4 million per year, $2.6 million of which they would lose, anyway, probably, because of Davis vs. Michigan. He added that, for the additional $1.4 million a year, they include the private pensions and military pensions as well. He noted that, yes, there are a lot of numbers out there and, to make it clear again, this bill, without their amendments, is about a $2.8 million fiscal impact, and it would be $4 million per year with the minimums they recommended to the committee.

Q. Senator Eck indicated Mr. Nordtvedt said he thought about 99% of the public employees and teachers, and asked if that would include teachers to be covered with the index that go from $12,000 to $18,000.

A. Mr. Nordtvedt responded plus their recapture provision.

Q. Senator Eck then asked what would be the maximum exclusion under the recapture provision.

A. Mr. Nordtvedt responded that it is in the ballpark of $27,000, noting they have heard that the highest pension out today is $31,000, that the average in TRS is $13,000, and in some of the other pensions the average is in the mid-teens. He pointed out that moves up rapidly with each year because it is based on final salary and years of service and that, because of the falling-off enrollment in the schools and universities, they are seeing the years of service grow, and the final salary grow. He added that, therefore, if they want to cover the great bulk of the new retirees, as well as the existing ones, they felt they had to get the exemption level up to this range.

Q. Senator Eck indicated that, in one of the fiscal notes, it has been noted that, if they also repeal the exclusion of interest income for people over 62, that would cut another $1.5 million. She stated she is not sure they want to do that, but asked Mr. Nordtvedt if that holds.

A. Mr. Nordtvedt responded that he can not remember that number, but indicated they would not want to do that, it would seem to him, until they are in a position to afford that next step of dividend and interest for people without pensions.

Q. Senator Eck noted they could exclude it for those who are getting this exclusion.

A. Mr. Nordtvedt responded yes, that they could write a clause saying that would have to be included in this limit.

Senator Eck indicated that could also have a fairly significant impact.

Q. Senator Halligan indicated the personal exemption is indexed, the standard deduction is indexed, and the rates are indexed, and asked Mr. Nordtvedt why do they have it at $12,000.

A. Mr. Nordtvedt responded that they want an exemption that, through the years, maintains it real value so that the exemption in 1989 and 1995, the exempted income will have the same purchasing power, otherwise each succeeding year, they are exempting a real amount which gets smaller and smaller and smaller. He added that, to maintain the real value of the exemption, they have to subject it to the indexing statute. He indicated that, secondly, if they want the exemption that someone will enjoy, who retires ten years from now, to be the same real exemption, compared to what they are granting now, they need the inflation factor. He further indicated that, once they decide whatever left is taxable, then, to make sure it is being taxed the same, at the same effective bracket rates now and in the future, they have the indexing they have had for eight years. He noted that it is getting a little technical, but indicated that the bottom line is to be consistent, and try to tax real things, rather than changing things.

Q. Senator Halligan asked Mr. Nordtvedt about Mr. Berry's idea of taking the money and putting it into health insurance.

A. Mr. Nordtvedt responded that he is sure, if they can get retirement groups to agree upon it, that they generally like to move retirement income into non-taxed kinds of benefits that they almost all universally want. He indicated that it is a fine idea, but the problem is that he does not know how quickly they can work that out because he knows it is rather complicated how each different public pension group, or private pension group, already treats their medical insurance, noting that some make absolutely no provisions, that the teachers' retirement system allows a teacher to stay in the group system, but they have to pay their full premiums and do not get the benefit of the State $120 per month contribution, adding that he has not the slightest idea how the fire fighters work it. Mr. Nordtvedt stated that he thinks it is a good idea, but does not see how they could work out all the details in the next few days of the special session.

Q. Senator Halligan asked Mr. Berry if he has any idea at all if it is even a viable alternative, or if they can work the details out, and would a private pensioner end up paying for the public sector's health insurance.

A. Mr. Berry responded that the idea, as Mr. Nordtvedt indicated, involves a very complex issue, that health insurance was just one example. He stated that he does not think they can come up with a plan between now and the end of this session, noting that it depends on how long this session goes, that maybe they could come up with a plan to shift into a partial payment of health insurance premium, but that all the local school districts have different health insurance plans, and the teachers' system is different from the state system. He indicated his suggestion was to, during the interim, take the dollars that the PERS and TRS are taxed and set it aside and, during the two-years, study whether they could swap the tax exclusion benefit for some other kind of benefit, and use that money to be redistributed out, starting with whatever kind of program they would try to implement.

He noted that the does not know whether health insurance can be substituted because of the complexities of the different types of systems. As an example, he reported that, among their own board members, they have a board member who is married to a retired Mountain Bell employee. He indicated their insurance is paid for by Mountain Bell, anyway, and it was not particularly attractive to them. He added that there are all kinds of those complexities they would have to look at, and that his suggestion was not to try to do that now, that his suggestion was just to set the money aside during the interim that the PERS and TRS people will be paying, until they can figure out what to do with it.

Q. Senator Halligan asked Representative Swift if the House felt strongly about the $12,000.

A. Representative Swift responded no, they did not feel very strongly about that, that the thinks they felt somewhat the same he did, that they did not want an overly complex piece of legislation because of the time constraints. He indicated it was a way to do something without getting overly involved in all the complexities the committee has just heard, noting that every entity has differences in their pension, the way they are paid, medical insurance, etc., and that was the very thing he wanted to avoid.

Q. Senator Walker asked Mr. Nordtvedt if his amendments take it back to an $18,000 exemption.

A. Mr. Nordtvedt responded yes.

Q. Senator Walker asked if there are then attachments to that based on a percentage, how many years they have paid.

A. Mr. Nordtvedt responded it is just a fraction of the years they paid taxes on the contributions that, if a person retired in 1985 or earlier, that would be 100%, that, if they retired today, they would be missing the last three years, and that fraction will tend to diminish in future years because they are not taxing those contributions right now.

Q. Senator Walker asked if Mr. Nordtvedt's department has the average state income, if the average is about $16,000.

A. Mr. Nordtvedt responded that public employees might be in the high teens, that the average teacher is probably in the mid-twenties.

There was general discussion among the committee members regarding the average salary.

Q. Senator Walker indicated that the $18,000 seems kind of high because they are going to give reductions to people on retirement who are making less money than a lot of people who are working for a living, and that somehow that does not seem right.

A. Mr. Nordtvedt responded that is the problem with averages, that there are obviously people who are receiving more income than the average, noting that, as they heard when the Senate bill was first introduced, the highest public state pension today is in the $31,000 range, adding that they are sprinkled through the 20's, and then they go down, that the average teacher retiring last year got a pension of $13,000. He indicated that new retirees are getting a pension substantially higher than the so-called average because some of the people on the average retired 20 years ago, and have had not adjustment for the cost of living.

Q. Senator Walker asked Mr. Nordtvedt if he has had a chance to look closely at this bill, and if this bill takes care of those people who invest money and use it for their retirement.

A. Mr. Nordtvedt responded no, that the administration would like to take care of them some day, on an equitable basis, that it is another $4 million beyond their recommended amendments, and they are just not in a fiscal situation to deal with that, right now, but it will be high on the agenda to address in the next regular session.

Closing by Sponsor:

Representative Smith thanked the committee for their courtesies, and what he considers to be a fine hearing. He indicated he thinks all the details were brought out, that this is a very complex subject, trying to create equity where every three entities they are talking about have different bases of pay, and different considerations in retirement. He added that is why, as he said earlier, he selected the simple approach he did.

He then indicated this bill is not presented to the committee because he characterizes public employees and state employees as being bad guys, that he does it because they are in a court situation, that the Supreme Court, right now, is hearing this bill, and he hopes they can take some action relative to what they are proposing here today, with the study, and can avoid some retroactivity which amounts to, potentially, $13 million or $14 million. He stated this bill will protect them for two years and, after this study, they should be in a position to do something more stable over the long-term. He indicated that, basically, he does not disagree with the administration's proposal, with the comment that as long as it considers, and considers to look at all three entities, private state and federal, in the same light, and not continue to get them into a discriminatory posture. He stated that he has not problem with that, noting that he has said in an earlier hearing, where they have been taxed on money in their pension plan, they should be allowed to recoup that money before they again pay taxes on anything. He noted that is akin to the federal law, that he said that in the early hearing, and has not problem with that. He indicated that, when they start giving wages that are greater than the average person makes in Montana, they are skirting on the edge of some danger.

Representative Swift then stated that he certainly does not want to leave this hearing with anyone feeling that he, as the sponsor of this piece of legislation, has any derogatory feeling toward public employees, that he has been a government employee for thirty some years, and he values those people because they do a great job, adding that he hopes they can get this thing on an even keel, and do something now to avoid that dire impact that he sees coming out of the court, because it is coming at them. He noted they do not really need to address the privates, but he thinks if they can not address the privates, as he proposes in this piece of legislation, they should kill it, because he wants them all to be treated the same.

Vice-Chairman Hager announced the hearing on HB5 as closed.

HEARING ON HB 4

Presentation and Opening Statement by Sponsor:

Representative Norm Wallin indicated that this bill is trying to straighten out something that is, in its present form, inequitable, and that the need for this legislation is to make it equitable for people who own passenger vehicles and trucks equipped with diesel engines. He explained that an individual came to him, during the last few days of the regular session, who had bought a used old Tornado for $3,000 and that, when he went to get it licensed, it was assessed at $6,000, and he obviously could see there was something very wrong. Representative Wallin reported that the individual then went to the Treasurer, who said there was nothing he could do about it, that the Assessor's office was right, that the laws are very specific, and that he had to pay on the value of the car as printed in this book (he displayed a copy of the NADA book). Representative Wallin added that the individual then went to the tax appeal board, found that they were not meeting at that particular time, so called him to see what he could do.

Representative Wallin indicated he took the matter up with Mr. Nordtvedt, who said he knew the problem and thought he could straighten it out with a directive, but Mr. Nordtvedt came back to him indicating that the law is specific, and he could not do it by directive, that it would have to be done by a law, which is why he brings this matter, in this form, to the committee this morning.

He reported that, during the gasoline crunch in the early 80's, they came out with vehicles equipped with diesel engines. He indicated the diesel engines General Motors built were conversions of gasoline engines, and they did not pan out, that there is no market for them.

Representative Wallin pointed out that they are being assessed on value that is not there. He again referred to the book, and indicated that the fine print under the dollar figure states that vehicles with diesel engines should be allowed a percentage deduction, noting that percentage can run from 35% to 45%, and they are, basically, paying for actual value of those vehicles. He noted that some credit is given for pick-up trucks equipped with diesel engines, but it does not compare with the deductions cars equipped with diesel engines should have, that he thinks the highest increase in value on a pick-up truck was $800, which was a very late model vehicle.

Representative Wallin then recited some figures from the book, noting that he hopes to make his point so that, perhaps, they can get this through. He reported that a 1984 Chevrolet Caprice is assessed on the basis of $4,650, but the fine print indicates that, if it is equipped with a diesel engine, it should be allowed a credit of 40%, so they are paying on $1,806 more than the value of the vehicle. He then indicated that, on a 1983 Oldsmobile 88 assessed at $3,700, they are paying on $2,035 too much; a 1985 Cadillac El Dorado is assessed at $15,500 but there should be a 35% reduction, and they are paying on $5,425 too much; on a 1984 Buick Regal 4-door, it is assessed at $4,125, but it should be 40% less, and they are paying on $1,650 too much; a 1985 Pontiac 5000 is assessed at $5,226, but the book says it should be 40% less, and they are paying on $2,091 too much. He added that it is much different on a Volkswagen car, but they are still paying on $500 more than the value of the car. He stated that, for those people who are affected, it is really as inequitable as it can be.

Representative Wallin then referred to the fiscal note, and indicated there is a little fiscal impact, that, in fiscal year 1990, there is a loss of $138,421. He pointed out that, if they divide that figure by 56 counties, on the average, each county will probably be receiving about $2,742 less on vehicles in 1991 but that, because these are older model vehicles, there will be fewer of them on the road and the impact could be even less.

Representative Wallin stated that, in all fairness, this is a problem which needs to be adjusted, and he would appreciate it if the committee would give this bill a do pass recommendation.

List of Testifying Proponents and What Group they Represent:

Dennis Burr, Montana Taxpayers Association

Testimony:

Mr. Burr reported that, when this issue first came up, they got a lot of calls from people who owned diesels, noting that they have not had very many recently, but that the problem is still there. He indicated that, when the legislature adopted the current system of valuing vehicles, the law said they do not count add-ons such as air conditioning and power steering in valuing vehicles, and that, likewise, they do not deduct for high mileage, that it is just the process of streamlining the system for the county assessors.

Mr. Burr then stated that his personal opinion is that this is something which should have been handled, administratively, several years ago, that the question is simply whether a diesel engine is an add-on or not, but he guesses the Department of Revenue has determined that it is. He added that he thinks they would logically say it is not an add-on, that it is an integral part of the car, and they should have been making this deduction for diesel engines all along but that, apparently, it will take legislation to straighten that out, as it does occasionally in these areas. He indicated that people are, obviously, paying on a higher value than the vehicle is worth, and this is just recognizing that the diesel engine is not an add-on like air conditioning or power steering, that it is something which materially affects the resale value of the vehicle. He further stated that they support this bill.

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members:

Q. Senator Halligan asked Representative Wallin what happens if he has a 1989 Mercedes with a diesel engine, noting he has never heard of any problems with those. He indicated that, obviously, it is worth a tremendous amount of money and is not like the Oldsmobile, and further asked if he is going to pay a lot less, at all.

A. Representative Wallin and Mr. Burr both responded, indicating that the newer engines are diesel blocks, not like with the gasoline conversions, and it is not an add-on. They further indicated they are not listed with a reduction because they are valuable cars, and will not be affected, at all. Representative Wallin pointed out that, in this particular instance, it is obviously a great difference in value, that they are paying over and above what they should be paying

Q. Senator Halligan asked Representative Wallin if the change would affect them both.

A. Representative Wallin responded no, and pointed out that he quoted the value of a 1985 El Dorado which booked at $15,500 equipped with a gasoline engine, but there is a 35% deduction, and they are paying for $5,425 value that is not typical value.

Q. Senator Halligan indicated he does not understand why it would not affect it and asked if, two years from now, when this bill takes effect and the new book is printed, will the book have any reference to this law, at all, noting that is a national book that is put out.

A. Representative Wallin responded it is the national book. He indicated he would guess that is standard equipment, and that, in the book on GM cars, in the fine print, it says deduct 35% or 45%, depending.

Q. Senator Halligan asked if that is 45% for diesel engines.

A. Representative Wallin indicated that is the inequitable part of it.

Q. Senator Severson asked Representative Wallin, whether the book calls for a deduction or not, it is an older car, and is he saying that is the way it should be taxed.

A. Representative Wallin responded that is the way it should be taxed.

Q. Senator Severson then asked if, on some of the older diesels, it would call for a deduction but, on some of the newer diesel engines such as a 1988 Ford pick-up truck, it would not call for a deduction.

A. Representative Wallin responded they are paying about $16 more.

Q. Senator Severson indicated that Representative Wallin is saying use the book, and what the value is, whether it is a deduction or an addition.

A. Representative Wallin responded that is right, to be fair.

Q. Vice Chairman Hager indicated that the bill contains a delayed effective date.

A. Representative Wallin responded he was asked to do that because Mr. Michelotti from Great Falls asked that it be made effective in January so that they could change the software which applies to the state-wide county treasurers. He added that, if they had put this through this year, they would have had to go through that book for every county, make new software.

Q. Vice Chairman Hager indicated that Mr. Burr mentioned he felt this is something which should have been done administratively and asked, since he has had quite a bit of experience along the lines of helping to write tax law, if, the way they are changing it, can it now be done administratively, if they pass this bill.

A. Mr. Burr responded that, if they pass the bill, it will have to be done, adding that he personally believes Revenue probably had the authority to do it, anyway, just under the fact that they try to assess property at its current market value, and it is obviously not right on those particular vehicles. He indicated that, if they are not going to do it administratively, it will require the bill to get that change done.

Q. Vice Chairman Hager asked if, then, theoretically, they could come back here and try to do the same thing in 1991 on air conditioners, or something like that.

A. Mr. Burr responded that he supposes so.

<u>Closing by Sponsor:</u>

Representative Wallin indicated he realizes that, when Representative Swift brought this in, he did not think that there was that much difference, noting that is the reason he is trying to correct the thing on the diesel engines. He further indicated he is sure there are low-mileage cars, high-mileage cars, air conditioned cars, and those with power steering, that there are very many different options which reflect on the value but that, individually, they are very small but, with the diesel engine, they are looking at a lot of extra dollars they are paying that they should not have to pay.

DISPOSITION OF HB 4

Discussion:

Senator Severson offered a motion that HB4 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB4 be concurred in, with Senator Mazurek opposed.

Discussion:

Vice Chairman Hager announced that the committee will not act on HB5 at this time but indicated that, if the committee members are thinking about amendments, he thinks they should act on it soon and he will suggest to the Chairman that the committee meet after this afternoon's session to act on it.

Senator Eck stated that she would, when the committee meets again, move the Nordtvedt amendments, and would ask Mr. Martin to look at them to see if they fit, and also, if they are trying to limit the fiscal impact, to look at the possibility of limiting the interest exemption to persons who do not have the other exemption, noting that she thinks that might save $1 million.

ADJOURNMENT

Adjournment At: 9:40 a.m.

Bob Brown

BOB BROWN, Chairman

BB/mhu
HB5.076

ROLL CALL

COMMITTEE ON TAXATION
51ST LEGISLATIVE SPECIAL SESSION

DATE: July 6, 1989

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

DATE 7/6/89
BILL NO. HB5

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VICE CHAIRMAN
GARY C. AKLESTAD
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J.D. LYNCH

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EDDYE MCCLURE

PARALEGAL
DOUG STERNBERG

June 13, 1989

HB5

To: Rep. Bernie Swift
From: Mary McCue
Staff Attorney

Re: Request for information concerning number of state, federal, and private retirees filing Montana tax returns and the average retirement income from each group

I. State retirees: information provided by Joan Miller
Public Employees' Retirement Division phone #5457
As of December 1988: 10,744 members
$5,421.15 average annual payment

II. Federal and private retirees: information provided by Larry Finch, Research Bureau, Department of Revenue phone #3526

1987 42,136 returns exempted some amount as retirement income
$175,929,668 exempted
$386,179,821 reported in taxable pension benefits

1986 private retirement exclusion up to $360 per return
21,768 households
22,705 returns
$7,923,222 exempt retirement income/ average of $348.96 per return
$118,826,630 claimed as "other income"/ average of $5,233.50 per return

1986 federal pension exclusion up to $3,600 per return
(figures arrived at by including every return with $3,600 or $7,200 exempted)
7,942 households
8,227 returns
$30,197,278 exempt retirement income/ average of $3,670.51 per return
$104,376,928 claimed as "other income"/ average of $12,687.12 per return

Not Assistance
NAPFE

DATE 7/6/89
BILL NO. HB5

Comparison of House Retirement Taxation Proposals

HB 43 Exempts federal retirement benefits from state income tax. This represents current law after Davis.

Revenue Impact* -- $5.08 million for the biennium.

HB 47 Tax state retirees under the current $3,600 exemption and increase retirement benefits to compensate for the tax.

Revenue Gains:

Tax on State Retirees (biennium)	$3.8 million
Ability to Tax Federal Retirees	$5.2 million
	$9.0 million

Cost of Increased Benefits (All Funds)**

	Cost	Net Cost
5% Increase	$12.1 million	$ 3.1 million
6% Increase	$14.5 million	$ 5.5 million
7% Increase	$16.9 million	$ 7.9 million X
8% Increase	$19.3 million	$10.3 million
9% Increase	$21.7 million	$12.7 million

HB 5 Provide a $12,000 Exemption for federal, state and private pensions.

Revenue Impact (biennum):

$12,000 Exemption	$5.6 million
$16,000 Exemption	$6.8 million
$20,000 Exemption	$7.6 million

* Refunds of taxes paid by federal retirees since 1983 are not affected by the above proposals. The potential refunds are estimated to total $13 million.

** Based on Teachers' Retirement System analysis.

DATE 7/6/89
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AMENDMENTS TO HOUSE BILL 5
SPECIAL SESSION 6/89
THIRD READING (BLUE COPY)

1. Title, line 5.
Following: "OF"
Insert: "UP TO"

2. Title, line 5.
Following: "$12,000"
Insert: "PLUS AN AMOUNT OF BENEFITS BASED UPON THE PERCENTAGE OF YEARS IN WHICH THE EMPLOYEE PAID MONTANA INCOME TAXES ON THE CONTRIBUTIONS TO THE PENSION OR ANNUITY"

3. Page 1, line 18.
Following: line 17
Insert: NEW SECTION. Section 1. Determination of retirement benefits exempt from taxation -limitations. (1) For the purpose of 15-30-111 and 15-30-136, the amount determined in subsection (1)(a) plus the amount determined in subsection (1)(b), subject to the limits in subsection (2), may be excluded from the amount of benefit income derived from pensions and annuities. The taxpayer is entitled to:

(a) the total amount of all Montana income tax adjustments for pensions and annuities paying benefits to the taxpayer. The tax adjustment for each pension or annuity is the amount of benefits received from the pension or annuity received during the year multiplied by the product of 35% times a fraction with a numerator that is the number of years Montana income taxes were paid on contributions the employee made to the pension or annuity over a denominator that is the number of years the employee made contributions to the pension or annuity.

(b) twelve thousand dollars in benefits, adjusted by the department of revenue by the inflation factor in 15-30-101(8), for each taxpayer regardless of the number of pensions or annuities paying benefits to the taxpayer.

(2) The allowable exclusion amount calculated in subsection (1) is limited to the exclusion amount calculated pursuant to subsection (1) or the benefits received from pension and annuities.

Renumber: subsequent sections

2. Page 2, line 23.
Following: line 22
Strike: subsection (c) in its entirety
Insert: "<u>(c) the allowable exclusion amount of benefits determined pursuant to [section 1]:</u>"

3. Page 9, line 15.
Following: line 14
Strike: subsection (h) in its entirety
Insert: "<u>(h) the allowable exclusion amount of</u>

EXHIBIT NO. [illegible]
DATE 7/6/89
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benefits determined pursuant to [section 1]:"

4. Page 12, line 4.
Following: line 3
Strike: subsection (a) in its entirety
Insert: "(a) the amount in excess of the exclusions provided in [section 1]; or"

5. Page 12, line 19.
Following: line 18
Strike: subsection (a) in its entirety
Insert: "(a) the amount in excess of the exclusions provided in [section 1]; or"

6. Page 13, line 11.
Following: line 10
Strike: subsection (2) in its entirety
Insert: "(2) The allowable exclusion amount of benefits determined pursuant to [section 1] is exempt from state, county, or municipal taxation."

7. Page 13, line 20.
Following: line 19
Strike: subsection (a) in its entirety
Insert: "(a) the amount in excess of the exclusions provided in [section 1]; or"

8. Page 14, line 10.
Following: line 9
Strike: subsection (a) in its entirety
Insert: "(a) the amount in excess of the exclusions provided in [section 1]; or"

9. Page 14, line 25.
Following: line 24
Strike: subsection (a) in its entirety
Insert: "(a) the amount in excess of the exclusions provided in [section 1]; or"

10. Page 15, line 12.
Following: line 11
Strike: subsection (1) in its entirety
Insert: "(1) the amount in excess of the exclusions provided in [section 1]; or"

11. Page 15, line 24.
Following: line 23
Strike: subsection (2) in its entirety
Insert: "(2) The allowable exclusion amount of benefits determined pursuant to [section 1] is exempt from state, county, or municipal taxation."

12. Page 16, line 10.
Following: line 9

EXHIBIT NO. 2 pg 2
DATE 7/6/89
BILL NO. H85

Strike: subsection (2) in its entirety
Insert: "(2) The allowable exclusion amount of benefits determined pursuant to [section 1] is exempt from state, county, or municipal taxation."

13. Page 16, line 21.
Following: line 20
Strike: subsection (2) in its entirety
Insert: "(2) The allowable exclusion amount of benefits determined pursuant to [section 1] is exempt from state, county, or municipal taxation."

14. Page 17, line 4.
Following: line 4
Strike: subsection (1) in its entirety
Insert: "(1) the amount in excess of the exclusions provided in [section 1]; or"

15. Page 17, line 14.
Following: line 13
Strike: subsection (1) in its entirety
Insert: "(1) The allowable exclusion amount of benefits determined pursuant to [section 1] is exempt from state, county, or municipal taxation."

EXHIBIT NO. 3
DATE 2/6/89
BILL NO. HB5

Explanation of Governor's Proposed Amendments

The Governor's pension reform amendment proposals 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.

Tier 1 Exemption - The tier 1 exemption allows a taxpayer to exclude a certain fraction of their pension income from taxation to allow recovery of 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 by Montana on their way into the funds will be taxed again as they are withdrawn.

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

Tier 2 Exemption - Tier 2 provides a general exemption in addition to the tier 1 exemption. It provides a $18,000 exemption that can be claimed against any pension income - federal, state and private pensions. This exemption is indexed to the cost of living factor.

Fiscal Impact

This bill, with the proposed amendments, will reduce income tax collections by an estimated $4.0 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.

EXHIBIT NO. 4 pg1
DATE 7/6/89
BILL NO. HB5

LEAVE ALONE - DO NOTHING:

	STATE RETIREE	FEDERAL	PRIVATE
TOTAL INCOME	$45,000	45,000	45,000
RETIREMENT EXCLUSION	- 31,000	- 42,000	3,600
AGI	14,000	3,000	41,400
LESS: DEDUCTIONS 5,000 2 EXEMPT. 1140 x 2 = 2,280 7280	- 7280	- 7280	- 7,280
TAXABLE INCOME	$6,720	-0-	$34,120
TAX	236	-0-	2,483
SUR TAX	24	-0-	248
TOTAL TAX	$260	-0-	$2,731

= $2991

HB #5 - STATE, FEDERAL, + PRIVATE TAXED EQUALLY:

	TOTAL INCOME	$45,000
LESS:	EXEMPTION RET.	- 12,000
	DEDUCTIONS & EXEMPTIONS	- 7,280
		$25,720 GROSS.
	TAX	$1,672
	SURCHARGE	167
		$1,839

x 3 = $5517

+ $2526 GAIN

Subjects. HB # 5

EXHIBIT NO. 4 pg2
DATE 7/6/89
BILL NO. HB5

Retirement exclusion	$ 12,000
Est. Deductions	5,000
2 exemptions	2,280
	19,280

Gross can make No Taxes

Tax	- 0 -
Surcharge	- 0 -
	- 0 -

another - Study - Do nothing - Scenario

		STATE	FEDERAL	PRIVATE
Retirement Income		$ 20,000		
Other Income		5,000		
		25,000	25,000	25,000
Retirement Exclusion		<20,000>	<20,000>	<3,600>
		5,000	5,000	21,400
Est Deductions	5,000			
2 exempt x 1140	2,280	- 7,280	-7,280	-7,280
Taxable Income		- 0 -	- 0 -	14,120
Tax		- 0 -	- 0 -	688
10% Surcharge		- 0 -	- 0 -	69
Tax		- 0 -	- 0 -	$ 757

Is this Equity? No! - Treat all citizens the same -

EXHIBIT NO. 4 pg 3
DATE 7/6/89
BILL NO. HB 5

COST: FOR BIENNIUM

TO DO NOTHING $\boxed{}$ 5.2 million

TO HAVE EQUAL TREATMENT $\boxed{}$ 5.8 million

JUST ABOUT A WASH — TO DO SOMETHING —

SO LET PASS A BILL FOR EQUAL TREATMENT OF RETIREMENT OF THE CITIZENS OF MONTANA —

EXHIBIT NO. 5 pg1
DATE 7/6/89
BILL NO. HB5

CHAIRMAN BROWN AND MEMBERS OF THE SENATE TAXATION COM. MY NAME IS LOU MARQUART

I AM A MEMBER OF A GROUPE CALLED EQUITY IN TAXATION OR E.T. FOR SHORT. WE ARE PENSIONERS WHO DRAW ~~##~~ OUR PENSIONS FROM THE PRIVATE SECTOR.

I TESTIED BEFORE THIS COMMITTEE IN 1987 WHEN WE ASKED THAT PRIVATE PENSIONS BE EXEMPT FROM INCOME TAXES IN THE AMT. OF $3600. WHICH PUT US~~#~~ ON PAR WITH FEDERAL ~~EMPLOY~~ RETIREES. THIS COMMITTEE WAS OVERWELMING IN SUPPORT OF OUR BILL AND SO WERE BOTH THE~~#~~ SENATE AND THE HOUSE. TO EACH OF YOU WE SAY, THANK YOU.

I HAD NOT PLANNED TO TESTIFY BEFORE YOU IN THIS SESSION BECAUSE I FELT THAT WE WERE TALKING ABOUT A PRETTY CLEAR CUT ISSUE EQUITY IN TAXATION. HOWEVER, AFTER SEEING THE AMOUNT OF OPPOSITION TO ANY BILL WHICH PROVIDES EQUITY I FELT IT WAS MY DUTY TO MY GROUP TO TESTIFY BEFORE YOU. WE WHOLE HEARTEDLY SUPPORT H.B 5 AS WE DID S.B.4. WE COULD SUPPORT SOME AMENDMENTS TO THE BILL PROVIDED THE AMENDMENTS DO NOT UNDO WHAT HAS ALREADY BEEN DONE IN THE HOUSE AND WE END UP WITH NOTHING FOR 2 YEARS.

I PERSONALLY BELIEVE HB5 PROTECTS ALL RETIREES WHO ARE HAVING A TOUGH TIME ~~TO~~ MAKING ENDS MEET. THERE WILL BE SOME FAT CATS IN ALL THREE SECTORS WHO WILL HAVE TO PAY SOME INCOME TAXES MYSELF INCLUDED - HOWEVER, I FEEL THIS IS JUST AND REASONABLE LEGISLATION. I HAVE LIVED IN MONT. ALL MY LIFE AND I PERSONALLY FEEL THAT I HAVE AN OBLIGATION TO HELP SUPPORT THIS BEAUTIFUL STATE AND ALL THE THINGS I CHERISH. PAUSE I THINK IT IS ONLY FAIR THAT RETIREES IN THE OTHER TWO SECTORS WHO ARE AS FORUNATE AS I AM CONTRIBUTE TO THE WELL BEING OF OUR STATE.

I AM SURE YOU ARE GOING TO HEAR TESTIMONY TO DAY THAT SAYS THE SUPREME COURT RULED THAT ~~WE~~ FED. RETIREES SHOULD BE TAXED THE SAME AS STATE RETIREES. H.B. 5 DOES THIS. YOU ALSO WILL HEAR THE STATE RETIREES CRY THIS IS SOMETHING THE STATE PROMISED US YEARS AGO THIS PURE NONSENSE. WHY SHOULD YOU LET AN INJUSTICE THAT WAS CREATED 40 YEARS AGO CONTINUE. TWO WRONGS DO NOT MAKE A RIGHT.

LAST EVENING I HAD AN OPPORTUNITY TO DISCUSS H.B. 5 WITH FOUR MEMBERS OF THE LEGISLATURE ALL FOUR OF THEM SUPPORT EQUITY - A MEASURE SIMILAR TO H.B 5.

EXHIBIT NO. 5 pg 3
DATE 7/6/89
BILL NO. HB5

All of these gentlemen said that they received a ton of phone calls from the people back home protesting this Bill, but when they explained that anyone drawing a pension of $1,000 per month or less would be excempt. The majority said thats fine I draw less than $1,000. per month on my pension and those drawing more than that can afford to pay some income taxes.

I realize your time is at a premium these days so I won't take much more of it. I would like to call your attention to some statistics released by the Fed. Bureau of Labor and carried both by the Bozeman Chronicle and the Independent Record. According to the Federal Bureau the average annual salary for employees in the private sector in Mont. in 1987 was $15,000 plus and the average annual salary for all Govt. employees Fed, State, and local in Mont was 19,000 plus This says that the average private employee in Mont. is only drawing approx 80% of the average gov't employee. In wage adjusts granted in 1987 private employees received approx. 51% of amount granted gov't employees. — So the truth of matter is that the average private retiree is worse

EXHIBIT NO. 5 pg 4
DATE 7/6/89
BILL NO. HB5

OFF THAN THE AVERAGE Gov't ~~~~ Retiree.

IN CLOSING LET ME TELL YOU WHAT A FRIEND OF MINE TOLD ME THE OTHER DAY. HE SAID - LOU DO YOU KNOW THAT A PAT ON THE BACK IS ONLY 16 INCHES HIGHER THAN A KICK IN THE PANTS

I ASK YOU THAT WHEN THIS BODY CONSIDERS H.B5. PLEASE GIVE THE PRIVATE RETIREES A PAT ON THE BACK

DON'T GO HOME UNTIL YOU HAVE PASSED LEGISLATION THAT PROVIDES FOR EQUITY FOR ALL PENSIONERS.

THANK YOU VERY MUCH FOR YOUR TIME. I'LL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE ABOUT MY TESTIMONY.

EXHIBIT NO. 6 pg1
DATE 7/6/89
BILL NO. HB5

TESTIMONY ON H.B. 5 BEFORE THE SENATE TAXATION COMMITTEE

JULY 6, 1989

Mr. Chairman, members of the Committee, I am Norris E. Mabry, a member of E.T. for Equity in Taxation. Please support HB 5, or any other bill which taxes retirement income equally. But today I want to speak specifically to HB 5 as it comes to you from the House.

1. HB 5 complies with the Michigan Supreme Court ruling. It eliminates discrimination for all retirees.

2. The $12,000 exclusion plus standard deductions and personal exemptions of approximately $7280 gives all retirees over $19,000 before they are subject to Montana taxes. This corrects the problem of people in the $8000 bracket being taxes while others at $24,000 are not taxed at all. I have received many phone calls since my last testimony was in the paper. People say "God Bless You and your plea for us."

3. HB 5 covers all private retirement income that is covered by the federal tax law as defined under IRS Code 401 through 409 which defines retirement plans. It also provides $10,000 for a study by an expanded Revenue Oversight Committee if Montana wanted to use different definitions.

4. When my Helena, Montana born and raised wife and I arrived back in her hometown 4 1/2 years ago to spend the balance of our years, the tax exclusion for our private pension was $360. Federal retirees received $3600 and state retirees received a total exclusion. We brought our case to the 1987 Legislature, as you all well know, and moved from being 3rd class retirees up to the federal standard of 2nd class.

I asked our group, E.T. why we didn't just file a lawsuit as there was nothing to lose. Our leaders pointed out that we had made the 1st step. Why not wait 2 years and go for E.T. again. Mary Craig said she would prefer something from the hearts of our law makers than to get a mandate from a judge. Then we would not creat ill feelings and bad publicity for our state. I had no rebuttal for that.

When I take the 7:25 a.m. plane today, it will be my first trip in 4 1/2 years and I am still a second class retiree.

EXHIBIT NO. 6 PG 2
DATE 7/6/89
BILL NO. HB5

A Cajun Senator from New Orleans was once asked what he thought about Senator Taft. He replied that the Senator reminded him of a young mockingbird just out of the shell - "he is all mouth and no bird." I have put enough mouth on this subject so please lay some bird on HB 5. It covers the waterfront and time is too short for changes.

Please let my wife pick me up at the airport one week from today with a smile and a greeting as a first class retiree. Thank you.

Norris E. Mabry

DATE July 6, 1989

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppose
Loyd C. Lamb, Sr.	E.T	H.B.#5	X	
Lew Berry	AMRPE	HB5		X
Alice Thomas	Retired Teachers	H.B 5		X
Richard E. Weeldreyer	AMRPE	H.B5		X
Edna May John	"	"		X
Lou Marquardt	E.T.	H.B5	X	
Gene Huntington	Retired teachers	HB5		X
Owen Warren	AARP.	HB5		X
Ed Shelley	NARFE	HB5		X
Terry Minow	MFT MFSE	HB5		X
Judy Carlson	E.T.	HB 5	X	
Mary Craig	ET	HB5	X	
Eric Feaver	MEA	HB 5		A
Tom Schneider	MPEA	HB5		X
Tom Owen	AMRPE	HB5		X
Gary Maddhaven	PERD	HB5		X
David Senn	Teachers Retirement Board	HB 5		X
Dennis Burr	MONTAX	HB4	✓	