

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, Chairman, on January 31, 1991, at 8:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

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

##### **Members Excused:**

Robert Brown (R)

**Staff Present:** Jeff Martin (Legislative Council).

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

**Announcements/Discussion:** None

#### **HEARING ON SENATE BILL 124**

##### **Presentation and Opening Statement by Sponsor:**

Senator Gage, District 5, presenting the bill for the Senator Swift, District 32, said much of this bill is carried over from the bill of least session. The bill simply provides that the first \$12,000 of retirement income is exempt from taxation whether it is from a combination of retirement plans or just from one. The bill would be effective for tax years beginning after tax years beginning Dec. 31, 1991. He noted the fiscal note indicates in FY 1992 there would be an additional \$1.7 million. He said the \$12,000 figure is as close as possible to making the bill tax neutral. Senator Gage presented a survey of total personal income by county from the Department of Commerce (Exhibit #1).

Senator Gage said promises were made years ago, however, times change and because of federal decisions there must be changes in Montana. He said the bill attempts to be as fair as possible given all the retirees involved. He understood for those who feel threatened by the provisions of SB 124 it is a bad bill. It is a mean problem and every attempt is being made to address it fairly and equitably.

### Proponents' Testimony:

Mary Craig, Equity in Taxation, said the average pension exemption for retirees is \$2606. The number of households claiming private exemptions is 20,512. All the retirees want is to be treated equitably with the rest of the retirees in the state. She said two of her clients have moved from the state this year due, in large part, to the retirement taxation situation in Montana.

Tom Harrison, Montana Association of CPA's, said his Association supports the bill on the basis of equality for public and private retirees alike. He said he would not recommend a set level of exemption as he felt that was a legislative decision.

Norris Mabry, Equity in Taxation, said \$12,000 is a good figure. He said the current \$3,600 exemption puts a real strain on the lower income retiree. He thanked the sponsor for introducing the bill and asked for the committee's support.

Gordon and Mary Clare, Silver Star, Montana, presented their testimony in support of the bill (Exhibit #2).

Dennis Burr, Montana Taxpayers Association, expressed support for the bill.

### Opponents' Testimony:

Leo Berry, Association of Montana Retired Public Employees, said there is no legal reason to change the existing tax system. This is a fairness issue and the bills are not fair to the public retirees. The Davis decision was based on governmental immunity, not equal protection or fairness. The Montana Supreme Court ruled there is no fairness or equal protection issue with the existing exemption. He said public and private sector retirees are offered different benefits and isolating one retirement issue is not fair. Montana has mixed its benefit package with its tax package. Perhaps that needs to be uncoupled, but it must not affect those people who gave their whole working lives to the state based on the promise of retirement benefits. He said the public employees must be kept whole if the decision is to exempt the private retirees.

Wilbur Swenson, President, Montana Retired Teachers Association, presented his testimony in support of the bill (Exhibit #3).

Dick Williams, President, Montana Association of Retired Public Employees, expressed his opposition and said he agreed with the testimony of the previous opponents. He presented his testimony to the committee as per Exhibit #4.

Ed Sheehy, a retired federal employee, said he was the lead plaintiff in the lawsuit. He said he opposes the bill as it is not a response to the decision in the Davis case. He said there is no way to make the federal retiree whole. Retirement income is treated differently at the state level than at the federal level for tax purposes. There are federal retirees who do not collect social security, but are required to pay tax on the full amount of their pensions. He noted military retirees are not mentioned in the bill.

Fred Patten, American Association of Retired Persons, presented his testimony in opposition to the bill (Exhibit #5).

Tom Ryan, Montana Retired Teachers Association, presented his testimony in opposition to the bill (Exhibit #6).

Loran Frazier, School Administrators of Montana, spoke in opposition to the bill.

Tom Bilodeau, Montana Education Association, presented his testimony in opposition to the bill (Exhibit #7).

John Malee, Montana Federation of Teachers, expressed his organization's opposition to the bill.

Samantha Sanchez, Montana Alliance for Public Policy, said the bill fails to keep state employees whole, fails to protect the state from loss of revenue, and fails to protect all senior citizens. She urged the committee to give the bill an adverse report.

#### Questions From Committee Members:

Due to the limited amount of time available for testimony, the committee agreed to hold questions until such time as executive action is taken on the bill.

#### Closing by Sponsor:

Senator Gage closed by saying for every action there is a reaction. He said we are "band-aiding" the situation and we are going to run out of band-aids. There is a difference between what is fair and what is legal. He said he was very concerned about what impact the retirement issue will have on the revenue of the state if it is not addressed with an eye toward the fiscal impact as well as fairness and equity to all the retirees. He felt SB 124 comes as close to fairness for everyone as could be devised. Senator Gage acknowledged the public employees' dedication and expressed thanks for their services through the years. However, he said that does not negate the other retirees'

service.

EXECUTIVE ACTION ON SENATE BILL 110

Amendments, Discussion, and Votes:

Senator Van Valkenburg moved to adopt the amendments and statement of intent as per Exhibit #8. He noted the bill would allow for the collection of the tax to be written off. The tax itself would not be written off.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Van Valkenburg moved SB 110 Do Pass As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 116

Amendments, Discussion, and Votes:

Senator Doherty moved to adopt the amendments as per the attached Exhibit #9. The amendments would leave the trinket prohibition in the bill.

Senator Thayer said he felt it is not fair to prohibit the tobacco industry from attaching trinkets to their product when we allow other products such as cereal and liquor to attach premiums and coupons for marketing incentives for products.

Senator Van Valkenburg said he had no problem with the trinket issue.

The motion to amend the bill FAILED on a roll call vote (Exhibit #10).

Senator Gage expressed concern with the enforcement of the consanguinity clause on page 6, line 5.

Recommendation and Vote:

Senator Thayer moved Senate Bill 116 Do Pass.

Senator Van Valkenburg expressed some concern about the impact on the long range building program if the one month delay pushes that month's receipts into the next year. He said that would affect the cash flow of this biennium into the long range building program.

Denis Adams said DOR had surveyed the individual wholesalers and asked how many would exercise the option to defer. Based on their responses, there would be a maximum impact of \$309,000 per year.

In reply to a question by Senator Towe, Terry Johnson said the distribution of the revenue would be partially to the long range building cash account and part to a debt service which eventually ends up in the general fund. Approximately 80% of the amount would be lost to the general fund.

There ensued a debate over the one month impact versus the one month loss of revenue to the biennium. It is a one time loss, but not be recoverable in this biennium as it occurs in the last month of the biennium.

Senator Doherty asked if there was any way to make the bill revenue neutral.

Mr. Adams replied only if the bill is left as it is.

Senator Eck made a substitute motion to TABLE SB 116.

The motion FAILED on a roll call vote.

Senator Harp moved to amend the bill in such a way as to have no fiscal impact as a result.

Senator Towe said it would be more appropriate to strike Section 6.

Senator Harp said that would require amending page 1, line 13, in addition to striking Section 6.

Senator Harp made a substitute motion to strike Section 6 and the corresponding language in the title. He asked the committee researcher to draft amendments to address the motion and other minor amendments to make the bill conform. This would, in effect, leave the payment the way it is currently.

The motion CARRIED.

Senator Harp moved SB 116 Do Pass As Amended.

The motion CARRIED unanimously.

#### EXECUTIVE ACTION ON SENATE BILL 119

#### Amendments, Discussion, and Votes:

Senator Towe moved SB 119 be amended as per the amendments on the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved SB 119 Do Pass As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 121

Recommendation and Vote:

Senator Gage moved SB 121 Do Pass.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 159

Recommendation and Vote:

Senator Yellowtail moved SB 159 Do Pass.

The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 10:10 a.m.

  
SENATOR MIKE HALLIGAN, Chairman

  
JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/3/91

52<sup>nd</sup> LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE

1/31/81

60

COMMITTEE ON

SB 124

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
George W. Stensland	N.A.R.F.E.	124	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
John Ben Herder	DAU	124		<input checked="" type="checkbox"/>
Edmund T. Shea	NARFE	124	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pat Stensland	NARFE	124	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Monty Briggs	PERS	124		<input checked="" type="checkbox"/>
Barbara Ciba	TRS	124		<input checked="" type="checkbox"/>
Bonnie Andersen	TRS	124		<input checked="" type="checkbox"/>
Hugo ANDERSEN, Jr.	TRS	124		<input checked="" type="checkbox"/>
Bill Korizek	Trs	124		<input checked="" type="checkbox"/>
Oliver Otter	TRS	124		<input checked="" type="checkbox"/>
Ed Sheehy	NARFE	124		<input checked="" type="checkbox"/>
Margaret Henry	NARFE -	124		<input checked="" type="checkbox"/>
Harley Ingersoll	TRS	124		<input checked="" type="checkbox"/>
William C. Howard	TRS	124		<input checked="" type="checkbox"/>
Andrew A. Amala	TRS	124		<input checked="" type="checkbox"/>
Fred Patton	AARP	124		<input checked="" type="checkbox"/>
Rudolf E. Walcott	AMRPE	124		<input checked="" type="checkbox"/>
Fern Flanagan	TRS	124		<input checked="" type="checkbox"/>
Tom Ryan	TRS	124		<input checked="" type="checkbox"/>
James Pascoe	TRS	124		<input checked="" type="checkbox"/>
Thyl Lucille Johnson	TRS	124		<input checked="" type="checkbox"/>
Charlotte R. Thomas	TRS	124		<input checked="" type="checkbox"/>
Alleg Thomas	TRS	124		<input checked="" type="checkbox"/>
GENEVIEVE FAIR	TRS	124		<input checked="" type="checkbox"/>
Orville Lewis	ARMPE	125		<input checked="" type="checkbox"/>
TOM BILODEAU	MEA	124		<input checked="" type="checkbox"/>

(Please leave prepared statement with Secretary)



DATE

1/31/91

COMMITTEE ON

Taxation

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mary Clare		124		
Salem Clare	self	124	✓	
Mary Craig	ET	124		
Norris Mabry	ET	124		
Wilbur Stevenson	MRTA	124		✓
Samantha Sanchez	MAPP	124		
Ken Guerin	AMRPE	124		X
Bill Olson	AARP	124		X
John Malee	M.F.T. M.F.E.	124		X
James Burr	MT Toy paper & Assoc	124	✓	
Gene Huntington	Montana Retired Teachers	124		X
Loon Fagin	S. A. M.			✓
Jacqueline M. Knight	Self			✓
Val M. Matross	Mont. Ret. Teacher	124		✓
Leo Berry	AMRPE			✓
Tim BERGSTROM	MT. STATE FIREMENS' ASSOC	124		X
Charles J. Hathaway	AMRPE	124		X
Edward L. Flies	MT State Council of Professional Firefighters	124		✓
Edna Nelson	AARP	124		✓
Shade Smith	NARTE	124	✓	
Harold C. Langbein	E.T.	124	✓	
George O. Poston	Self	124		✓
W. Hamlin Jr	Self		✓	

(Please leave prepared statement with Secretary)

## SURVEY OF CURRENT BUSINESS

DATE 11/3/91BILL NO. 58134Table 2.—Total Personal Income and Per Capita Personal Income by County,  
1986–88—Continued

Area name	Total personal income				Per capita personal income <sup>1</sup>			
	Millions of dollars			Percent change <sup>2</sup>	Dollars			Rank in State
	1986	1987	1988		1986	1987	1988	
Montana .....	9,588	9,979	10,382	4.0	11,730	12,332	12,903	.....
Metropolitan portion .....	2,583	2,676	2,813	5.1	13,011	13,632	14,453	.....
Nonmetropolitan portion .....	7,004	7,303	7,570	3.7	11,319	11,916	12,409	.....
Beaverhead .....	92	100	107	6.1	10,958	12,038	12,775	25
Big Horn .....	110	115	117	1.7	9,771	10,456	10,716	47
Blaine .....	68	70	70	-.4	9,666	10,037	10,066	52
Broadwater .....	35	37	37	-.2	10,057	10,440	10,642	50
Carbon .....	88	92	96	4.8	10,346	11,036	11,571	39
Carter .....	19	22	22	3.0	11,151	12,749	13,618	13
Cascade .....	1,038	1,082	1,141	5.5	13,200	13,819	14,597	2
Chouteau .....	80	82	76	-7.2	13,601	14,036	13,188	20
Custer .....	152	157	166	5.1	11,535	12,028	13,045	22
Daniels .....	37	36	32	-11.9	14,081	14,000	12,463	28
Dawson .....	24	127	129	1.5	11,348	12,184	12,770	26
Deer Lodge .....	104	107	108	1.5	10,043	10,629	10,870	46
Fallon .....	44	45	46	2.2	12,095	12,828	13,722	12
Fergus .....	144	144	144	.1	11,510	11,697	11,931	37
Flathead .....	677	717	775	8.0	11,615	12,375	13,226	19
Gallatin .....	544	569	598	5.0	11,139	11,736	12,341	30
Garfield .....	24	23	22	-3.9	14,664	14,465	14,064	8
Glacier .....	121	127	129	1.8	10,894	11,363	11,638	38
Golden Valley .....	12	13	14	1.4	11,379	12,254	12,334	31
Granite .....	29	32	33	2.2	11,085	12,335	12,474	27
Hill .....	212	217	203	-6.5	11,929	12,245	11,521	41
Jefferson .....	101	111	120	8.2	12,705	13,670	14,432	4
Judith Basin .....	26	27	25	-6.7	10,102	10,433	10,002	53
Lake .....	203	212	229	7.9	9,676	10,128	10,879	45
Lewis and Clark .....	602	632	667	5.5	12,869	13,405	14,195	6
Liberty .....	37	37	31	-14.5	16,079	15,668	13,409	15
Lincoln .....	177	181	187	3.5	9,315	9,580	9,975	54
McCone .....	33	33	28	-17.0	12,887	13,333	11,264	42
Madison .....	60	62	65	5.4	10,463	10,814	11,561	40
Meagher .....	23	23	24	4.7	10,985	11,004	11,994	35
Mineral .....	33	34	34	-.4	9,214	9,620	9,848	55
Missoula .....	917	965	1,019	5.6	11,690	12,323	13,010	23
Musselshell .....	50	53	53	1.0	10,850	11,731	12,225	32
Petroleum .....	6	6	7	16.2	9,286	10,263	12,442	29
Phillips .....	59	63	65	3.1	10,856	11,571	11,983	36
Pondera .....	79	82	74	-10.4	11,803	12,541	11,014	43
Powder River .....	28	30	31	2.7	11,507	12,966	14,107	7
Powell .....	72	73	74	2.4	10,571	10,573	11,004	44
Prairie .....	18	21	21	.1	10,608	12,727	13,163	21
Ravalli .....	248	259	275	5.8	9,865	10,248	10,695	49
Richland .....	141	141	142	1.0	10,799	11,597	12,070	34
Roosevelt .....	115	110	112	2.2	10,084	9,834	10,099	51
Rosebud .....	117	122	131	7.6	9,276	9,826	10,698	48
Sanders .....	76	79	82	2.6	8,494	9,091	9,490	56
Sheridan .....	75	75	69	-8.0	13,628	14,071	13,281	17
Silver Bow .....	421	434	462	6.4	12,391	12,976	13,941	11
Stillwater .....	73	82	92	12.4	12,139	13,106	14,531	3
Sweet Grass .....	39	42	45	5.6	12,189	13,180	13,987	9
Teton .....	78	83	79	-5.5	12,668	13,600	12,867	24
Toole .....	70	72	68	-6.0	12,922	14,028	13,264	18
Treasure .....	13	14	14	2.2	13,476	14,413	15,418	1
Valley .....	105	111	112	1.0	11,870	12,940	13,335	16
Wheatland .....	28	29	31	5.8	12,699	13,269	13,975	10
Wibaux .....	14	15	15	1.1	10,521	11,800	12,169	33
Yellowstone .....	1,546	1,594	1,671	4.8	12,888	13,507	14,356	5
Park (incl. Ylwsn. Natl. Park) .....	153	157	166	5.7	11,735	12,799	13,453	14
Nebraska .....	21,583	22,514	23,701	5.3	13,505	14,125	14,793	.....
Metropolitan portion .....	10,691	11,312	12,058	6.6	14,287	15,056	15,815	.....
Nonmetropolitan portion .....	10,892	11,203	11,643	3.9	12,817	13,294	13,866	.....

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31 day of Jan, 1991.

Name: Mary F. Craig

Address: PO Box 577  
Helena, MT

Telephone Number: 442-4666

Representing whom?

ET Equity In Taxation

Appearing on which proposal?

~~Senate~~ Bill 124

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31 day of Jan, 1991.

Name: NORRIS E. MABRY

Address: 1334 8th AVE  
Helena MT 59601

Telephone Number: 449 8622

Representing whom?

ET

Appearing on which proposal?

SB 124

Do you: Support? V Amend?      Oppose?     

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31<sup>st</sup> day of January, 1991.

Name: Gordon CLARE

Address: P.O. Box 706

Silver STAR madison Co. MT - 59751

Telephone Number: 684-5574

Representing whom?

Self.

Appearing on which proposal?

SB 124

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

When the state Retiree's are not Taxed on  
their Retirement income, And the federal  
Employees who retire in MT. are not TAXED  
on their Federal Retirement income, But  
The State of Montana TAXES the Private  
Sector Retirees on his Private Sector income  
except for the \$1000. deduction, Shows  
Discrimination Against The Private Sector  
Retirees.

Montana already includes 1/2 of Social security  
income if it pushes the Adjusted Gross income over  
a certain Amount. the Retiree is getting it  
on ALL sections of his Retirement.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31 day of Jan, 1991.

Name: Mary Clare

Address: Box 706 Silver Star MT 59751

Telephone Number: 684-6574

Representing whom?

myself

Appearing on which proposal?

Do you: Support?        Amend?   /   Oppose?       

Comments:

Think - if we had no tax on private  
retirement you would have so many  
warm bodies in Nev. you couldn't count  
them. Business would prosper, no  
senior travel, doctors, morticians.  
Everyone in business would win.  
Nevada is having a population  
explosion because of no retirement  
or state tax!! Please give this  
consideration. We are thinking  
of moving to NEVADA.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31<sup>st</sup> day of January, 1991.

Name: Wilbur Swenson

Address: 806 6<sup>th</sup> St.

Haure, MT 59501

Telephone Number: 265-9067

Representing whom?

Montana Retired Teachers Association

Appearing on which proposal?

SB-124

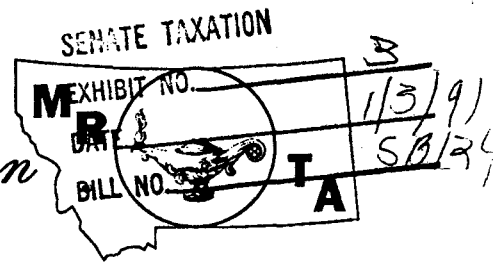
Do you: Support?       

Amend?       

Oppose? X

Comments:

# Montana Retired Teachers Association



## Testimony in Opposition to Senate Bill 124

By Wilbur Swenson  
President of The Montana Retired Teachers Association

January 31, 1991

Mr. Chairman, members of the Committee, my name is Wilbur Swenson and I am President of The Montana Retired Teachers Association. I appear in front of you today in opposition to Senate Bill 124.

Retired teachers were provided with special tax treatment in 1947, not because teachers wanted to avoid taxes but because the state could not provide adequate salaries or retirement benefits to teachers. Tax treatment as a benefit was affirmed by the Attorney General in 1955 in an opinion that stated:

"In a word, it was the clear intent of the legislature to maintain the benefits available under the Act inviolate and undiminished and to insure them against incursion of all extraneous claims."

The recent decision by The First District Court referred to the statute providing the exemption for teachers, the decision stated:

"..This language demonstrates a legislative purpose to include as a benefit of employment, a tax exempt retirement income."

The proponents of Senate Bill 124 argue that they are the victims of unequal tax treatment, clearly that argument has no basis in past legal decisions.

Teachers and other public employees can not bargain with their employer for retirement benefits, but must accept what the legislature provides. In 1947 the Legislature provided teachers with tax exempt retirement income as a benefit. Senate Bill 124, would diminish that benefit for a substantial number of retired teachers. The Teachers Retirement System has indicated that there are 1,468 beneficiaries who have retirement benefits in excess of \$12,000.

Retired teachers consider the treatment of their retirement benefits as part of their compensation, not a tax break. Many educators have based career and retirement decisions on the belief that their benefits would not be taxed. The state has a moral, if not legal obligation, to continue the exemption of pension benefits for retired teachers. If retirement benefits must be taxed, benefits must be increased to offset the new taxes.

Any solution to the "Davis" decision should not be used to raise new revenue at the expense of public retirees to benefit private retirees.





# Association of Montana Retired Public Employees

Post Office Box 4721  
Helena, Montana  
59604

SENATE TAXATION

EXHIBIT NO. 4

DATE 1/31/91

BILL NO. 58/96

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

January 31, 1991

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

I AM DICK WILLIAMS, PRESIDENT OF THE ASSOCIATION OF MONTANA RETIRED PUBLIC EMPLOYEES. OUR ASSOCIATION OPPOSES SENATE BILL 124 FOR THE FOLLOWING REASONS:

RETIREMENT BENEFITS FROM THE VARIOUS RETIREMENT GROUPS ADMINISTERED BY THE STATE OF MONTANA HAVE BEEN EXEMPTED FROM TAXATION SINCE AS EARLY AS 1947. PUBLIC EMPLOYEES EXEMPTION FROM TAXATION HAS EXISTED SINCE 1955. THIS EXEMPTION WAS WIDELY ACCEPTED UNTIL TWO YEARS AGO WHEN THE "DAVIS" DECISION DETERMINED THAT STATE RETIREES COULD NOT BE TAXED DIFFERENTLY THAN FEDERAL RETIREES. HOWEVER, IT MUST BE REMEMBERED THAT DURING THEIR WORKING YEARS STATE EMPLOYEES NORMALLY WERE PAID LESS THAN FEDERAL AND PRIVATE EMPLOYEES HOLDING SIMILAR JOBS. IN AN EFFORT TO ATTRACT AND RETAIN QUALIFIED EMPLOYEES, THAT STATE PROVIDED TAX EXEMPTION IN THE FORM OF ADJUSTED COMPENSATION AT RETIREMENT. THIS EXEMPTION IS WIDELY PUBLICIZED IN EMPLOYEE MANUALS AND RETIREMENT HANDBOOKS. IT HAS BEEN DETERMINED, IN COURT, TO BE A BENEFIT OF EMPLOYMENT.

IT IS THE POSITION OF AMRPE THAT NO CHANGE SHOULD BE MADE TO THE EXISTING TAX SYSTEM. IF, HOWEVER, THE LEGISLATURE DESIRES TO TAX FEDERAL RETIREES OR EQUATE TAXATION FOR STATE, FEDERAL AND PRIVATE RETIREES, PERS RETIREES SHOULD BE KEPT WHOLE. THIS CAN BE ACCOMPLISHED BY TAKING THE MONEY GENERATED THROUGH THE TAXATION OF PUBLIC RETIREMENT BENEFITS AND ALLOCATING A PORTION OF IT BACK OUT TO ELIGIBLE PUBLIC RETIREES. AMRPE DOES NOT OPPOSE TAX EXEMPTION FOR ANY OTHER RETIREE GROUP. HOWEVER, WE ARE ADAMANTLY OPPOSED TO TAXATION OF PUBLIC EMPLOYEES TO ACHIEVE EQUALITY WITH ANY OTHER RETIREE GROUP OR TO BALANCE THE BUDGET. FOR THE STATE TO CHANGE THE TAX SYSTEM WITHOUT MAKING PUBLIC RETIREES WHOLE WOULD BE A BREACH OF A MORAL, IF NOT LEGAL OBLIGATION TO PUBLIC RETIREES.

THANK YOU.



2

SENATE TAXATION

EXHIBIT NO. 5

DATE 1/31/91

BILL NO. SB/24

Bringing lifetimes of experience and leadership to serve all generations.

MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN  
Mr. Fred Patten  
1700 Knight  
Helena, MT 59601  
(406) 443-3696

VICE CHAIRMAN  
Mr. Paul Stengel  
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Box 174  
Sundurst, MT 59482  
(406) 937-2451

JANUARY 31, 1991

TO: SENATE TAXATION COMMITTEE

FROM: FRED PATTEN - AMERICAN ASSN. OF  
RETIRED PERSONS

RE: SENATE BILL 124 - 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.

THE AMERICAN ASSOCIATION OF RETIRED  
PERSONS IS IN OPPOSITION TO THIS  
BILL. WE SUPPORT THE POSITION OF THE  
MONTANA RETIRED TEACHERS ASSOCIATION  
ON THE EXEMPTION OF PENSION INCOME  
FROM STATE TAXATION. A.A.R.P. URGES A  
DO NOT PASS ON SENATE BILL 124.



Bringing lifetimes of experience and leadership to serve all generations.

MONTANA STATE LEGISLATIVE COMMITTEE

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Mr. Fred Patten  
1700 Knight  
Helena, MT 59601  
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Montana AARP State Legislative Committee  
1991 Position Paper

**STATE TAXATION OF STATE/LOCAL GOVERNMENT PENSION PLANS<sup>1</sup>**

**PROBLEM:** Continuing attempts to tax pension income of members of the Montana Teachers Retirement System and other State and local government pension plans. The Montana Teachers' Retirement System was created in 1937 and amended in 1947 to make membership mandatory for all certified teachers and administrators in Montana schools. The Montana Code, annotated, excluded all payments made to retired teachers and other state and local government retirees from any state income tax. Many of these employees contributed to these plans for 30 to 40 years under the assumption that pensions accrued under these laws would not be subject to a state income tax.

**SOLUTION:** Maintain exclusion as contained in Montana Codes, annotated, and fulfill statutory obligations as passed and amended.

---

**POSITION:** This statutory obligation should not be abrogated. Exemption of pension income from state income taxation should be continued for all contributors of the Montana Retired Teachers' Association and of other state and local government plans.

---

**CONTACT:**

---

<sup>1</sup> This issue should not be confused with the Davis vs. Michigan decision concerning state taxation of federal retirees pension income.

12/90

dr/V1131

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 31 day of Jan, 1991.

Name: Tom Ryan

Address: 907- Washington Helena

59601

Telephone Number: 442-8999

Representing whom?

T. Retirement

Appearing on which proposal?

SB 124

Do you: Support? NO Amend?      Oppose? X

Comments:

Reiteration of established of  
system defense companies

Affirmation by Atty General

" by Dist. Court

One Hell of a Bill



Montana Education Association

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

SENATE TAXATION

EXHIBIT NO. 7

DATE 1/31/91

BILL NO. SB-124

**SB-124 (SWIFT)**

**MEA SAYS "NO" TO PERS & TRS PENSION TAXATION**

-----  
By: Tom Bilodeau, MEA Research Director  
January 31, 1991 -- Senate Taxation Cmte

This January, the 1991 Legislature begins formal discussion of proposals to tax Teacher Retirement System (TRS) and Public Employee Retirement System (PERS) pension benefits! In a very real and immediate sense, the value of both current and future TRS and PERS pensions are in jeopardy. The proposed changes in tax status of TRS and PERS retirement benefit income violate an historic trust agreement between retirees and the State of Montana. More pointedly, taxation of public employee retirement benefits threaten to reduce the effective buying power of public employee pensions by as much as 6%.

In MEA's view, public retirees simply can't afford a new tax on fixed pensions -- pensions originally set at uncompetitively low levels due to depressed salary levels and pensions that haven't come close to meeting retirees' basic financial needs. MEA says "NO!" to pension taxation and opposes SB124.

The Governor's initial Budget proposed to abolish Montana's income tax exemption for TRS and PERS benefits and to begin taxing the very first dollar of TRS and PERS pension benefits if a "retiree household's" total income (i.e. pension plus all other income) was more than \$25,000. For "retiree households" having total annual income of less than \$25,000, the Governor proposed to impose a new tax on all but the first \$3,600 of pension income. By mid-January and the Governor's State of the State address, the administration's proposal was changed to exempt the first \$10,000 of pension benefits if the "retiree household's" total income was less than \$35,000. For households having total annual income of more than \$35,000, all pension income would be taxed.

SB124 would impose a different but only slightly less onerous form of pension taxation. Very simply, SB124 would exempt from taxation the first \$12,000 of state, federal or private retirement pension benefits. Thereafter, any pension income in excess of \$12,000 would be treated as ordinary income subject to deductions, credits, and ultimately -- tax. Only persons resident in Montana or otherwise subject to Montana income tax law (most, but clearly not all TRS or PERS benefit receivers), would be subject to the new tax. Under SB124, the adverse impact on an individual Montana taxpayer taking the standard deduction on total annual income of \$20,000 (here assumed to be exclusively from TRS or PERS sources) is expected to be an effective benefit loss of between -\$113 (for a pensioner older than age 65) and -\$167 per year for younger retirees. Furthermore, SB124 proposes no general or ad hoc benefit adjustment or income tax "rebate" to state pensioners to offset for the imposition of the suggested new tax on TRS or PERS retirees.

Additionally, SB124's \$12,000 exemption threshold -- unlike the Governor's (and Dr. Nordvedt's) proposal of 1989 -- is not indexed to inflation. Given the average new TRS retiree benefit level of approximately \$13,000 per year and the prospect that this level will annually increase at roughly the rate of inflation in coming years, the lack of indexing assures that an ever larger proportion of TRS benefit income will be made subject to tax. Such treatment discriminatorily impacts retirees and is contrary to the State's general policy of income tax indexing. Finally, SB124 fails to address the issue of proper and fair tax treatment for current and future retirees who already paid tax on their wage deductions for employee retirement plan contributions made prior to 1985.

While not required by the decision itself (despite characterizations sometimes heard to the contrary), Montana's discussion of pension taxation comes in response to the U.S. Supreme Court's ruling in Davis vs. Michigan (1989). In the Davis case, the Supreme Court ruled that Michigan's state income tax exemption for state and local retiree benefit income was unconstitutional if similar treatment was not also allowed for federal retiree benefit income. Montana's income tax provisions are virtually identical to Michigan's and thus we are directly affected by the Supreme Court's ruling. Since 1989, in satisfactory and complete compliance with the Supreme Court's ruling, the Department of Revenue has suspended collection of state income tax on federal retirees' pension benefit income.

For reasons of revenue and politics -- certainly not law -- the Governor's and other legislative bill drafts (including SB124) propose to extend Montana income tax exemption status to some portion of both federal and private pension benefit income. To limit the adverse revenue impact to the State which results from such an expansion of pension exemptions, most of these proposals would begin taxing some portion of TRS and PERS pension benefit income. SB124 sets the tax threshold at a flat \$12,000; just low enough to actually raise slightly more than \$3 million dollars in new state revenue over the biennium -- the majority of it paid for by new taxes on public pensioners.

Under these circumstances, with the full support of the historical record and legal sanction, and in coalition with other representatives of both currently active and retired public employee groups\*, the MEA stands ready to defend the pension security interests of our members and is resolutely opposed to the taxation of public retirement benefit income.

**\* PUBLIC EMPLOYEE PENSION SECURITY PLANNING GROUP \***  
-----

Montana Education Association (MEA)  
Montana Retired Teachers' Association - AARP (MRTA)  
Association of Retired Montana Public Employees (AMRPE)  
American Fed of State, County & Municipal Employees (AFSCME)  
Montana Public Employees' Association (MPEA)  
Montana Federation of Teachers/State Employees (MFT-MFSE)  
School Administrators of Montana (SAM)

Amendments to Senate Bill No. 110  
First Reading Copy

Requested by Sen. Van Valkenburg  
For the Committee on Taxation

Prepared by Jeff Martin  
January 28, 1991

1. Title, line 6.  
Following: "OFF"  
Insert: "THE COLLECTION OF"

2. Page 1, line 10.  
Following: line 9  
Insert: "Statement of Intent"

A statement of intent is required for this bill because [section 1] grants the department of revenue authority to adopt rules for establishing procedures to determine whether it is cost-effective to collect any tax, penalty, or interest from a delinquent taxpayer. The legislature intends that the rules adopted by the department address the circumstances under which it is no longer cost-effective to pursue the collection of a tax. These circumstances include, but are not limited to, the difficulty of finding the delinquent taxpayer, locating the assets of the taxpayer, or the financial condition of the taxpayer. In addition, the rules adopted by the department may include procedures to remove, for accounting purposes, a delinquency from the department's accounts receivable.

The legislature also intends that rules provide that the tax delinquency, if it is written off, is not forgiven but that the department will incur no further expense in collecting the tax.

3. Page 1, line 12.  
Following: "~~of~~" *with*  
Insert: "the collection of"

4. Page 1, line 13.  
Following: "interest"  
Insert: "-- rules"  
Following: "."  
Insert: "(1)"  
Following: "off"  
Insert: "the collection of"

5. Page 1, line 19.  
Following: "off"  
Insert: "the collection of"

6. Page 1, line 24.  
Following: line 23  
Insert: "(2) The department of revenue shall prescribe rules to establish the procedures to carry out the purposes of this

section."

SENATE TAXATION

EXHIBIT NO. 8

DATE 1/31/41

REL. NO. SB11D



Amendments to Senate Bill No. 116  
First Reading CopyRequested by Sen. Doherty  
For the Committee on TaxationPrepared by Jeff Martin  
January 23, 1991

1. Title, line 11.  
Strike: "SECTIONS"  
Insert: "SECTION"

*title line 8-9.*

2. Title, line 12.  
Strike: "16-10-202 AND"

3. Page 12, line 7.  
Strike: "Sections"  
Insert: "Section"

4. Page 12, line 8.  
Strike: "and"  
Strike: "are"  
Insert: "is"

ROLL CALL VOTE

SENATE TAXATION

EXHIBIT NO. 10

DATE 1/31/91

BILL NO. SB 116

SENATE COMMITTEE ON TAXATION

Date 1/31 SD Bill No. 116 Time       

NAME	YES	NO
SEN. HALLIGAN		X
SEN. BROWN		
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP		X
SEN. YELLOWTAIL		X
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE	X	
SEN. DOHERTY	X	

Bill Cochran  
Secretary

Sen. Mike Halligan  
Chairman

Motion: amendments to SB 116 to  
~~remove~~ leave in prohibition  
of trinkets ~~sales~~ attached  
to cig sales

motion failed

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

ENR/ST NO. 11  
 DATE 1/31/91  
 BILL NO. SB 116

Date 1/31/91 SB Bill No. 116 Time \_\_\_\_\_

NAME	YES	NO
SEN. HALLIGAN		X
SEN. BROWN		
SEN. ECK	X	<del>NO</del>
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP		X
SEN. YELLOWTAIL		X
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE		X
SEN. DOHERTY	X	

Bill Cochran  
 Secretary

Sen Mike Halligan  
 Chairman

Motion: table 116 - Eck  
failed

# ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 1/31/91 SB Bill No. 116 Time       

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN		
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG	X	
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE	X	
SEN. DOHERTY	X	

Bill Robyns Secretary Sen. Mike Halligan Chairman

Motion: Down amend strike Section 6  
& title plus any other  
minor technicals that conform  
to intent of motion  
re Section 6

Carried

## SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
January 31, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 110 (first reading copy -- white), respectfully report that Senate Bill No. 110 be amended and as so amended do pass:

1. Title, line 6.

Following: "OFF"

Insert: "THE COLLECTION OF"

2. Page 1, line 10.

Following: line 9

Insert: "Statement of Intent"

A statement of intent is required for this bill because [section 1] grants the department of revenue authority to adopt rules for establishing procedures to determine whether it is cost-effective to collect any tax, penalty, or interest from a delinquent taxpayer. The legislature intends that the rules adopted by the department address the circumstances under which it is no longer cost-effective to pursue the collection of a tax. These circumstances include but are not limited to the difficulty of finding the delinquent taxpayer, the difficulty of locating the assets of the taxpayer, or the financial condition of the taxpayer. In addition, the rules adopted by the department may include procedures to remove, for accounting purposes, a delinquency from the department's accounts receivable.

The legislature also intends that rules provide that if a tax delinquency is written off, it is not forgiven, but the department will incur no further expense in collecting the tax."

3. Page 1, line 12.

Following: "of"

Insert: "collection of"

4. Page 1, line 13.

Following: "interest"

Insert: "-- rules"

Following: "."

Insert: "(1)"

Following: "department"

Insert: "of revenue"

Following: "off"

Insert: "the collection of"

5. Page 1, line 19.

Following: "off"

Insert: "the collection of"

6. Page 1, line 24.

Following: line 23

Insert: "(2) The department shall prescribe rules to establish  
the procedures to carry out the purposes of this section."

Signed: \_\_\_\_\_

Mike Halligan, Chairman

Jan 1-31-91  
Am. Coord.

SR 1-31 2:20  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 31, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 116 (first reading copy -- white), respectfully report that Senate Bill No. 116 be amended and as so amended do pass:

1. Title, line 6.

Strike: "REQUIRING MONTHLY PAYMENT OF THE TAX;"

2. Title, line 13.

Strike: "16-11-117,"

3. Page 9, line 11.

Strike: "to delay payment"

Insert: "credit"

4. Page 10, line 13 through page 11, line 13.

Strike: section 6 in its entirety

Renumber: subsequent sections

Signed: \_\_\_\_\_  
Mike Halligan, Chairman

*JH* *1-31-91*  
Amd. Coord.

*SR* *1-31-91*  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 31, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 119 (first reading copy -- white), respectfully report that Senate Bill No. 119 be amended and as so amended do pass:

1. Page 2, lines 19 and 20.

Following: "report" on line 19

Strike: remainder of line 19 through "revenue," on line 20

Signed: \_\_\_\_\_

Mike Halligan, Chairman

*1-31-91*  
Amd. Coord.

*SP 1-31 1:20*  
Sec. of Senate

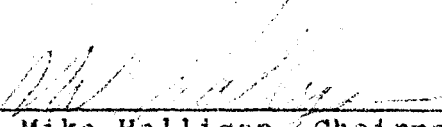


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 31, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 121 (first reading copy -- white), respectfully report that Senate Bill No. 121 do pass.

Signed:   
Mike Halligan, Chairman

121 43491  
And. Coord.


SP 1/31 1:20  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 31, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 159 (first reading copy -- white), respectfully report that Senate Bill No. 159 do pass.

Signed:   
Mike Halligan, Chairman

1-31-91  
And. Coord.

SP 1-31 1:20  
Sec. of Senate