

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on March 11, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

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

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 481

Presentation and Opening Statement by Sponsor:

Representative Wallin, District 78, sponsor, said auctions on property acquired by tax deed are conducted every six months. The bill would allow the Board of County Commissioners to sell the property between the first auction and the next scheduled auction if there were no qualifying bids submitted for the property at the first auction. The Board may sell the property by negotiated sale at a price that is not less than the fair market value that was fixed for the original auction.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Representative Wallin closed.

EXECUTIVE ACTION ON HOUSE BILL 481

Recommendation and Vote:

Senator Eck moved HB 481 Be Concurred In.

The motion CARRIED unanimously.

HEARING ON SENATE BILL 378

Presentation and Opening Statement by Sponsor:

Senator Harding, District 25, sponsor, said the bill exempts from execution a judgment debtor's property in this state when judgment is in favor of another state for failure to pay that state's income tax on a pension or retirement plan. The bill has been heard in the Judiciary committee and was transferred to this committee. Senator Harding said there are concerns regarding reciprocal tax collections between states. She noted there are bills in both houses of Congress which will address the problem on a nationwide basis.

Proponents' Testimony:

Ed Sheehy, Retired Federal Employees, said several states have been seeking out retirees who earned their retirement in one state, but moved to another state when they retired. This is called source taxing and basically amounts to taxation without representation (see Exhibit #1).

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Van Valkenburg asked Denis Adams to respond to the reciprocity problem.

Mr. Adams replied Montana has reciprocal agreements with almost all the states, including California. He said DOR feels the bill may be unconstitutional in that if the judgment is reduced to a monetary amount under the U. S. Constitution, the states are required to enforce the other state's judgment. This is supported by case law. There are many ramifications other than the pension issue.

Senator Eck said this issue came up during the pension bills.

Mr. Adams said states can tax source income. Montana can require non-residents who draw Montana retirement to pay a tax if the legislature sees fit to enact such a tax.

Senator Van Valkenburg asked how a taxpayer can avoid double taxation if Montana were to tax it the retirement which was earned here and California taxed the income because the person is a resident.

Mr. Adams replied all states allow a credit for taxes paid in another state. The only difference would be if the tax rates were different - higher or lower taxes would result in paying more or less than the base amount.

Closing by Sponsor:

Senator Harding closed by saying she thought this was a simple bill. It was introduced with the intention of avoiding taxation without representation. She said she has no intention of creating problems with other states and their taxes, however, she felt people shouldn't be taxed where they cannot vote.

EXECUTIVE ACTION ON SENATE BILL 378**Recommendation and Vote:**

Senator Eck moved SB 378 be Tabled.

The motion CARRIED with Senators Harp and Brown voting no.

EXECUTIVE ACTION ON HOUSE BILL 151Amendments, Discussion, and Votes:

Jeff Martin, Council Researcher, presented the proposed amendments to the bill (Exhibit #2).

Senator Doherty moved the amendments be adopted.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Eck moved HB 151 Be Concurred In As Amended.

The motion CARRIED unanimously.

Senator Doherty asked to be quoted as saying, "Contrary to some suggestions in printed material, these amendments do not appear to be dilatory or an attempt to forestall corrective action on an immediate problem. They appear to make the bill a lot better."

HEARING ON SENATE BILL 416Presentation and Opening Statement by Sponsor:

Senator Williams, District 15, sponsor, said the bill allows a tax credit over a five year period for installing a geothermal system.

Proponents' Testimony:

Gene Phillips, Pacific Power and Light, said the bill was introduced at the request of PP&L. The geothermal system uses the earth's heat to heat a house in the winter and cool it in the summer. He said in the Libby area 21% of the homes are heated by wood stoves and 1% by heat pumps. As a result, there is a substantial air quality problem in that area. PP&L commissioned an air quality study for the area, the results of which are contained in Exhibit #3. Use of a ground source heat pump would alleviate the air quality problem measurably. He referred to the chart in Exhibit #4 for the proportion of contributing factors in the air pollution. Heat pumps are not inexpensive, he noted. They cost anywhere from \$6,000 to \$12,000. He presented a chart of comparative fuel prices (Exhibit #5).

Kelly Goosey, Energy Recon, said he has worked with the Ravalli and Flathead Electric Cooperatives on a survey to determine heat loss, home insulating efficiency and pollution factors. He has installed 50 performing heat pumps in the Flathead area. He said a ground source system will operate at 300-350% efficiency. One installation in a 4000 square foot home with a ground source system yields kilowatt usage of \$45 per month. Electric companies have established incentives for their customers who install geothermal devices. The public has a real concern about clean air and energy conservation and is making the change, even with the relatively high cost factor. The incentives are helping with those conversions.

Rudy Kratofil, Ravalli Electric Cooperative, said the geothermal systems make "super good sense" and are working very well in his area. He has worked closely with Mr. Goosey in training and education programs. He submitted information to the committee on the geothermal systems (Exhibit #6).

Jim Jensen, Montana Environmental Information Center, spoke in support of the bill. He noted the incentives are taxed, a concern that some people have expressed when they have considered purchasing the heat pump.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Harp said the bill enacts a tax credit and he wondered what would happen if the legislature passed a flat tax.

Denis Adams replied he would have to research the offset and flat tax possibility.

Senator Yellowtail asked for clarification of the "open" and "closed" loop application.

Mr. Goosey explained the closed loop is an underground source and the open loop utilizes open water.

Senator Gage said there may be a problem in that this heat source is realistically only available to those who own their own home. It would be prohibitively expensive for owners of rental units to install and certainly renters, themselves, would not invest in that system.

Closing by Sponsor:

Senator Williams said this project will cost some money at the beginning, but the savings certainly will offset that cost. Northwest power use has grown 4% per year for the last 3 years. The power surplus of the '80's is gone and new power sources must be developed. He urged the committee to give serious consideration to the bill.

HEARING ON HOUSE BILL 313**Presentation and Opening Statement by Sponsor:**

Rep. McCaffree, District 27, sponsor, said the bill has been introduced at the request of the Montana Treasurers Association. The bill revises the procedures for issuance of a tax deed. If the county takes a tax deed, it must notify all interested parties. When an individual takes tax deed, he must notify all interested parties. If he fails to do so, the County Treasurer must complete the notification and then charge the individual \$500. The \$500 is often uncollectible and results in claim against the tax title. The bill relieves the Treasurers of the obligation of notifying the interested parties if the individual who took tax title does not complete the notification.

Proponents' Testimony:

Court Harrington, Montana Treasurers Association, said this creates an obligation to follow through with procedures when you take a tax assignment. If you do not complete the process, then the interest in the tax assignment is lost.

Opponents' Testimony:

There were no opponents.

Questions from Committee Members:

There were no questions.

Closing by Sponsor:

Rep. McCaffree said this bill is another attempt to streamline the process and make it easier to apply to current tax deed assignments.

EXECUTIVE ACTION ON HOUSE BILL 313Recommendation and Vote:

Senator Gage moved HB 313 Be Concurred In.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 226Discussion:

Senator Van Valkenburg said it is important to discuss the retirement bills in light of budget balancing concerns as the Senate gets closer to the transmittal date. He suggested providing a \$3600 across the board exemption to all retirees. He also said it is important to recognize the historical relationship between Montana public employees and the rest of the population employed in the state. The Montana public employees have been paid at a lower level than the private sector or federal employment. The situation of the Montana public employees has been recognized by the fact that the state affirmatively decided not to tax any of their retirement benefits. Because of the Davis decision and the loss of revenue with respect to retired federal employees, Senator Van Valkenburg felt it would not be possible to continue to provide a total exemption to Montana public employees. His solution is to provide an offsetting increase in benefits to the Montana public employees. He said there may be some legal problems with that provision. The Montana Public Employees Association feels that a bill can be drafted which would withstand any legal challenges.

Senator Van Valkenburg presented a list of options prepared by the Department of Revenue (Exhibit #7). He said in order to get the process moving, he would like to present amendments to Senator Harp's SB 226 which would give a \$3600 across the board exemption to all retirees. The amendments would also include a 2% across the board retirement benefit increase to Montana public employees. The net revenue effect of that will be to generate an additional \$16.25 million per biennium. He said that is somewhat close to what the Governor's budget envisions.

Senator Harp said he agreed to those provisions in the spirit of bipartisanship. He said it is necessary to make it clear that the intent is to recapture the federal dollars. He felt there would be strong support from the Republicans and, although it is not the approach the Governor prefers, it comes close to accomplishing the same purpose.

Senator Thayer expressed concerns about the lawsuit threatened by the federal retirees. He said he felt the military retiree is entitled to the same treatment as the state employees.

Senator Eck said she felt there would be an advantage to considering two separate bills. One bill would provide a \$3600 exemption and another, which could be tied to it, would deal with increases in the retirement benefits. She said this is not a bill to balance the budget and provide revenue to the state. It is old business from two years ago and needs to be resolved now.

Various suggestions were made for different approaches to the bill. Senator Harp said it is impossible to create a perfect package at this point. He felt it would be back to the Senate in one form or another at least one more time as it will be tied to the budget balancing process as it moves ahead.

Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill as per the amendments in attached Exhibit #8. This is essentially a substitute bill.

Leo Barry said the chances are the bill would not survive a legal challenge as the amendments propose.

Senator Harp was concerned with allocating money from the general fund as it is too early to determine where the money will be found. He asked the committee to strike the reference to the general fund.

Senator Towe reviewed the amendments and amended his motion to adopt the amendments presented in the attached standing committee report on SB 226 (Exhibit #9).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 226 Do Pass As Amended.

The motion carried on a roll call vote.

ADJOURNMENT

Adjournment At: 10:00 a.m.


SENATOR MIKE HALLIGAN, Chairman


BILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/11/91

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.

31/11/91

Senate Taxation

VISITORS' REGISTER

(Please leave prepared statement with Secretary)



NARFE

National Association of Retired Federal Employees

1533 New Hampshire Avenue NW
Washington, DC 20036-1279
(202) 234-0832 FAX: 797-9698

OFFICE OF THE CLERK

EXHIBIT NO. 1

DATE 3/11/91

BILL NO. SB 378

ISSUE: STATE INCOME SOURCE TAXATION

Several states, California being the most aggressive, have been seeking out former residents and taxing them on retirement income earned while a resident of that state. For example, an individual who works in California retires and moves to Nevada. California is able to tax that individual's pension, annuity or IRA on the basis that the pension was earned in the state of California. This is called "source-taxing" and is legal. If the non-resident does not pay the source taxes states can hire collection agencies to repossess cars and put liens on homes. In addition, California includes a 55% penalty and daily interest in the tax assessment.

PROSPECT

Companion bills have been introduced in the House and the Senate. Rep. Barbara F. Vucanovich (R-NV) sponsored H.R. 431, and in the Senate, S. 267 was introduced by Senator Harry Reid (D-NV). The bills would prohibit a state from taxing the pension income of individuals who are not residents or domiciliaries of that state.

The same bills had been introduced in the 101st Congress. Neither bill moved out of committee, nor were hearings held.

NARFE'S POSITION

States should not be allowed to tax the annuities or pensions of non-residents. NARFE fully supports legislation that will prohibit states from taxing the retirement income of individuals who are no longer residents or domiciliaries of such states.

It is unfair that non-resident retirees should have to pay taxes to a state when they no longer can vote in, or receive benefit from, such state. This is true taxation without representation.

Amendments to House Bill No. 151
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
March 7, 1991

1. Page 3, line 7.

Strike: "THE RATIO"

2. Page 3, line 8.

Strike: the first "OF"

3. Page 3, lines 8 and 9.

Strike: "REMAINING" on line 8 through "REMOVED" on line 9

Insert: "that the property was in the state"

4. Page 3, line 9.

Strike: "12"

Insert: "the number of months from when the property was first in
the state to the end of the year. The refund may not exceed
the amount of the tax paid"

5. Page 3.

Following: line 9

Insert: "(4) For the purposes of this section, "month" means any
part of a calendar month."

Kootenai Valley Eagle-Libby, Mt. Fri., October 28, 1988-11

Libby air quality below new federal standards

Eight Montana communities are in violation of new state and federal air quality standards for particulates.

According to the Montana Department of Health and Environmental Sciences, the communities include Libby, along with Columbia Falls, Kalspell, Polson, Ronan, Missoula, Butte and Lame-Deer. Although Columbia Falls was not originally on the Environmental Protection Agency's (E.P.A.) list, it is now considered in violation of the standards based on recent air monitoring data.

The new federal particulate matter standards are based on inhalable particulates (particles in the air with a diameter less than 10 micrometers in size) instead of the old total particulate matter

standard. The 'PM-10' standards became effective on July 31, 1987 and establish a maximum 24-hour concentration of 150 micrograms per cubic meter — not to be exceeded more than once per year — and a maximum annual average of 50 micrograms per cubic meter.

In establishing the new PM-10 standards, EPA reviewed extensive scientific research comparing atmospheric particulate concentrations with human health effects. The result was a standard based on particles with a diameter of less than 10 micrometers (approximately 1/10th the thickness of a human hair). These fine particles are capable of penetrating deep into the oxygen-exchanging areas of the lungs and are considered to be the most dangerous.

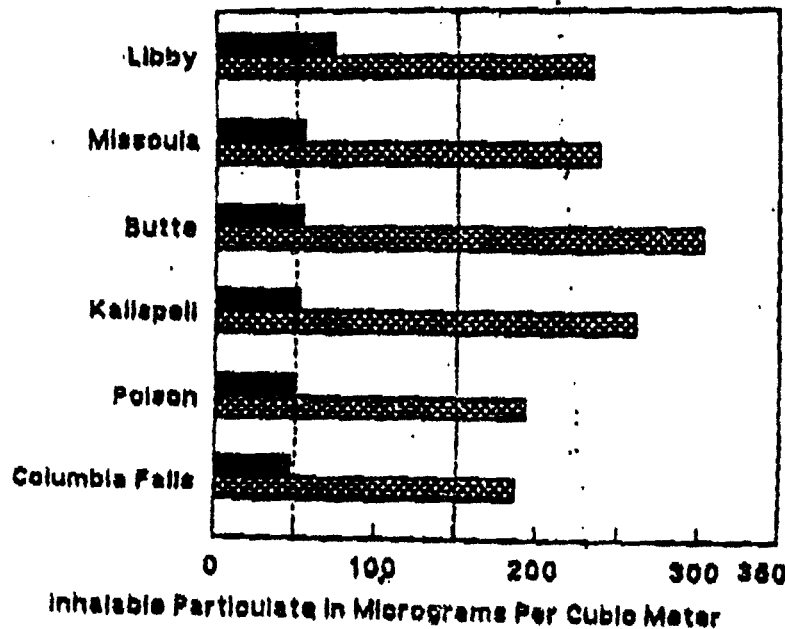


FIGURE 42

SENATE TAXATION

EXHIBIT NO. 7

DATE 3/11/91

BILL NO. SB 416

LIBBY PM-10 SOURCE APPORTIONMENT

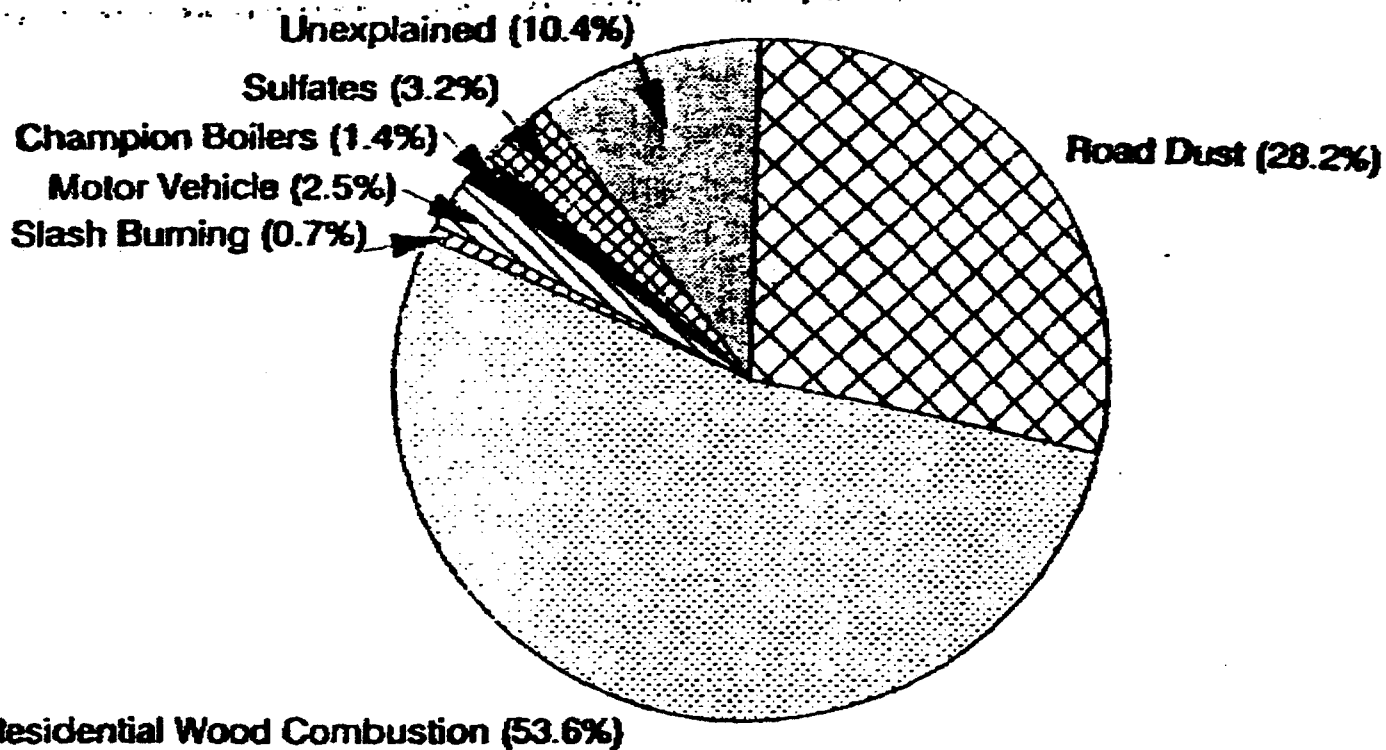
Total Contribution (0-10 microns)

Courthouse Parking Lot

December 1, 1987 - February 17, 1988

and December 26, 1988

(Winter Average 82.1 ug/m³)



Comparative Fuel Prices

Kalispell Area - 1991

Fuel Type	Heating Value *	Fuel Cost	Cost/therm	Appliance	Efficiency	Cost/therm ** Usable Heat
Electricity	.0341 therms / kWh	\$.042 / kWh	\$1.23	Ground Source Heat Pump	3.5 COP ***	35¢
Wood	170 therms / cord	\$50.00 / cord	29¢	High Efficiency Wood Stove	74%	40¢
Natural Gas	9.3 therms / mcf	\$3.456 / mcf	37¢	Hi-range Furnace	90%	41¢
Natural Gas	9.3 therms / mcf	\$3.456 / mcf	37¢	Mid-range Furnace	80%	46¢
Wood	170 therms / cord	\$50.00 / cord	29¢	Conventional Stove	50%	59¢
Natural Gas	9.3 therms / mcf	\$3.456 / mcf	37¢	Conventional Furnace	60%	62¢
Wood Pellets	184 therms / ton	\$110 / ton	60¢	Pellet Stove	82%	73¢
Propane	.95 therms / gallon	\$.959 / gallon	\$1.01	Hi-range Furnace	90%	\$1.12
Electricity	.0341 therms / kWh	\$.042 / kWh	\$1.23	Baseboard Heaters	100%	\$1.23
Propane	.95 therms / gallon	\$.959 / gallon	\$1.01	Mid-range Furnace	80%	\$1.26
Propane	.95 therms / gallon	\$.959 / gallon	\$1.01	Conventional Furnace	60%	\$1.68
Wood	170 therms / cord	\$50.00 / cord	29¢	Fireplace	15%	\$1.96

*NOTE: 1 therm = 100,000 btu's

** Cost per therm prices reflect only the fuel cost and efficiency of the heating unit. They do not include maintenance or cleaning costs, or initial price of the heating unit.

*** COP refers to Coefficient Of Performance - the measure of a heat pump's efficiency. A 3.5 COP equals 350% efficiency.

SENATE TAXATION

EXHIBIT NO. 5

DATE 3/11/91

BILL NO. SB 416

Tap Into Nature's Energy Source For Total Heating And Cooling Comfort Year 'Round...

***Geo-Thermal™ Heat Pumps by Climate Master Cut Utility Costs
Using The Most Efficient Technology Available Today!***



There's A Perfect Heat Pump Installation

You can enjoy the comfort and economy of a Geo-Thermal™ Heat Pump in your home. The concept of drawing energy for heating and cooling from the earth is practical, clean and safe while costing far less to operate than conventional systems. Climate Master has pioneered this concept and designed systems that have been operating in every part of the country for over 40 years. If you're tired of high heating and cooling bills, turn to the natural comfort solution: a Geo-Thermal Heat Pump from Climate Master.

It's "A Natural" For Cutting Heating/Cooling Costs

Save both ways—heating and cooling—with a Geo-Thermal Heat Pump by Climate Master.

When you *heat* using nature's own energy source, your savings over the operation of conventional heating systems can be as great as 70%. Basically, the only energy cost you pay is the power it takes to pump water from a well or through the earth loop, and to operate a blower fan and compressor.

In *cooling*, the savings over other types of air conditioning units ranges between 25% to 50%. The comfort is total, and the cost is down year 'round.

More Savings In Operation

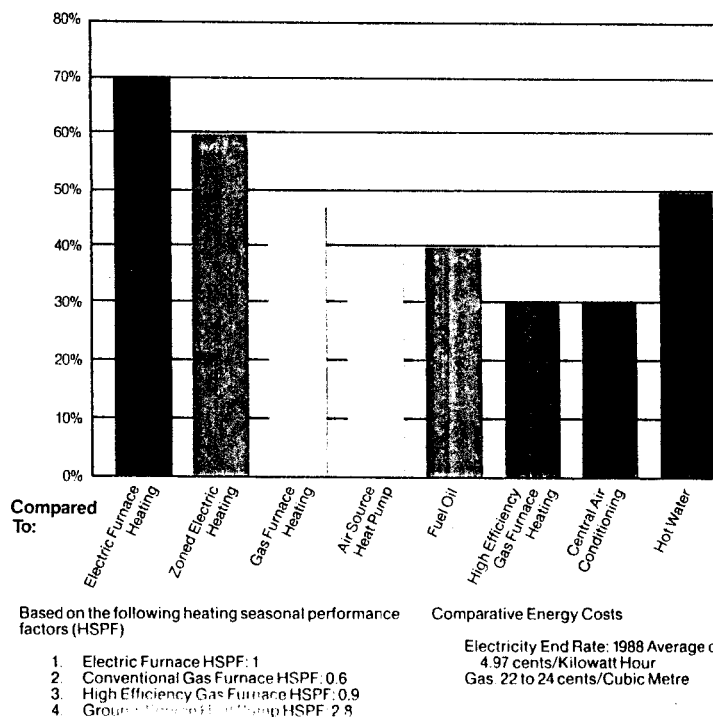
Geo-Thermal Heat Pumps by Climate Master are more economical from every angle. They are easy to install and easy to maintain. Rugged Climate Master construction keeps your unit in dependable running condition for years of comfort at top efficiency. The required unit doesn't take any abuse from weather extremes, either. It's located completely indoors, resulting in extended equipment life.

Clean As Electricity Without The High Cost

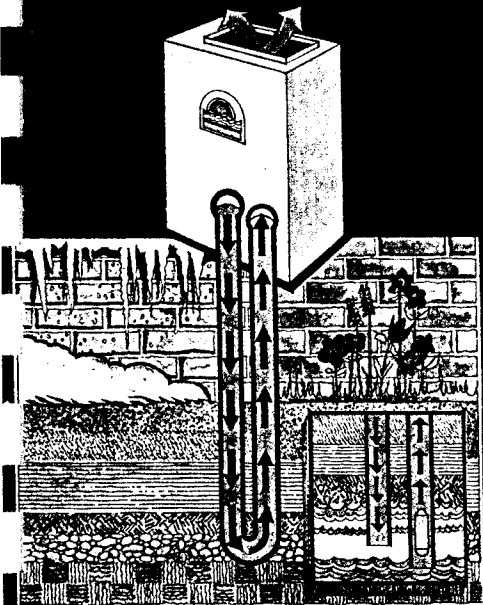
A Geo-Thermal Heat Pump circulates clean indoor air with no pilot lights, no burners—no flame at all. Since these attractively designed units are installed indoors, venting is not necessary, and there is no loss of heat to the outside. Safety is enhanced because there are no pilot lights, burners or flames in the system. Your home's interior stays cleaner because the Geo-Thermal Heat Pump produces no waste by-products normally associated

with fossil-fuel heating systems. Your home's exterior and landscaping are not marred by unsightly outside units that are subject to damage by harsh weather. They are amazingly efficient as well, with EERs as high as 15.0 when cooling and COPs as high as 3.98 when heating. The energy that is used is made to yield maximum results. From every perspective, a Geo-Thermal Heat Pump by Climate Master provides total comfort at substantial savings over older, conventional methods. It is the proven technology of today.

Geo-Thermal™ Heat Pump Cost Savings



Geo-Thermal ation For Your Home...



The Working Concept Is Simple And Proven

The Geo-Thermal Heat Pump works much the same as an air conditioner or air-source heat pump. The difference is that a constant temperature water is the primary source for heating and cooling—instead of varying air temperatures as in conventional systems.

Earth And Water Beneath Your Home Are The Source

The ground and water beneath your home remains at a constant temperature year 'round ... typically 45 to 75 degrees ... depending on your geographical location. When heating, the Geo-Thermal Heat Pump circulates water coming from the earth and uses it as a heat source. Heat is extracted from the water and transferred to a refrigerant supply. The refrigerant is then compressed to a higher temperature. When air is passed over the hot coils it becomes hot and then moves on to warm the air in your home. When cooling, heat is removed from your home to the refrigerant, exchanged to the outside water, and expelled into the earth.

There's A Geo-Thermal Heat Pump Designed To Fit Inside Your Home

Climate Master offers a large range of Geo-Thermal Heat Pump capacities to fit the needs of virtually every size and style of home. Most houses require just one unit. Square footage or layout may dictate the use of more. However, whether in a northern or southern location, there is a Geo-Thermal Heat Pump system that offers home owners high EER* and COP* ratings.

Climate Master units are available in three basic styles: horizontal, vertical and split system models. The versatility of these compact units permits installation almost anywhere—in basements, utility rooms, attics, crawl spaces, closets, or even concealed in ceilings. As long as the space is temperature controlled and no cold extremes occur in the winter months, a Geo-Thermal Heat Pump can be put to work effectively.

Vertical, Down Flow, and Horizontal Models are available in various capacities up to 5 tons of heating/cooling. (60,000 Btu/Hr.)

* EER is the ratio of cooling capacity in BTUs per Hour (BTUH) compared to the watts of electricity used. COP is the ratio of heating capacity in BTUH to the input watts expressed in BTUH (3.413 BTUs per watt).



Climate Master Quality

Every unit is ruggedly built from the highest quality materials and components, then subjected to rigorous testing at the factory. The Climate Master record of performance and durability assures you of years of comfort with little or no maintenance.

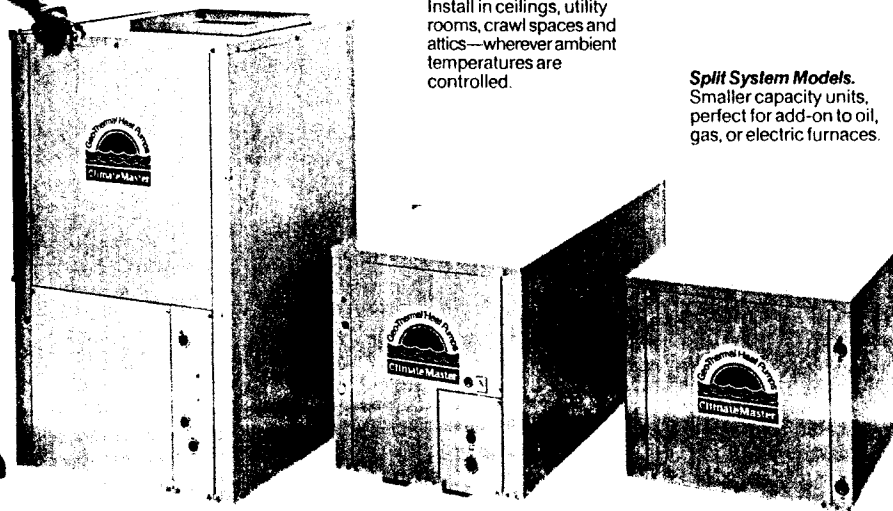
Vertical Models. Available in many sizes, this unit is ideal for basement, utility room or closet installation for where ducting is below the floor.

Down Flow Models. Vertical units designed for where ducting is below the floor.



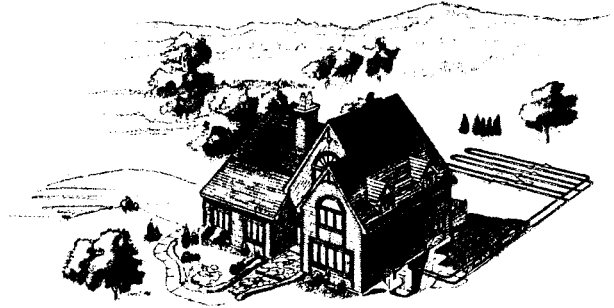
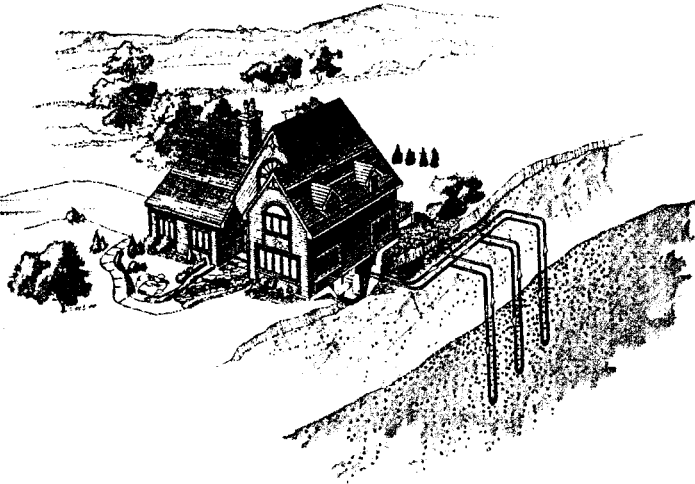
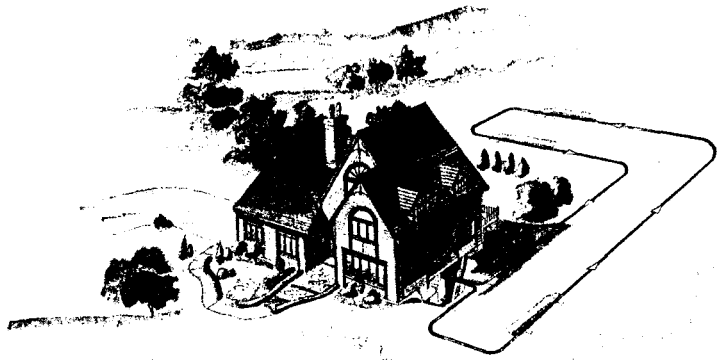
Horizontal Models. Install in ceilings, utility rooms, crawl spaces and attics—wherever ambient temperatures are controlled.

Split System Models. Smaller capacity units, perfect for add-on to oil, gas, or electric furnaces.

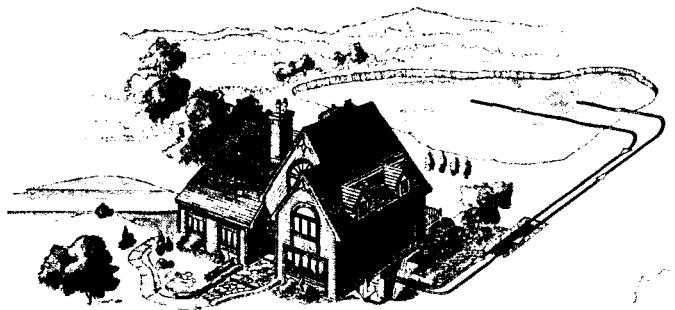
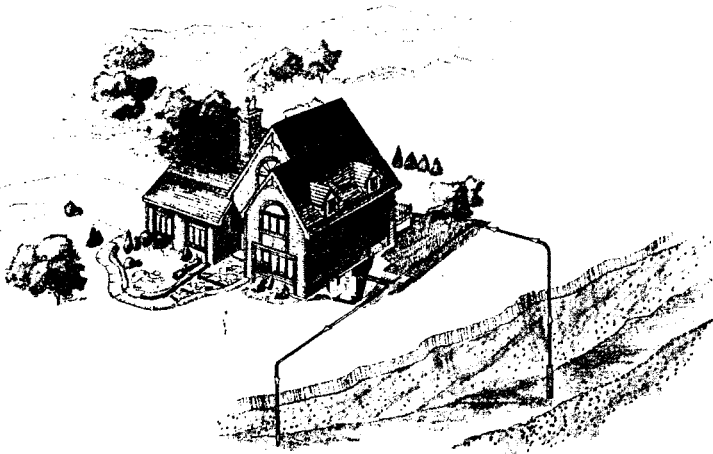


Choose From Two Efficient, Proven Systems

Outside your home, two types of Geo-Thermal Heat Pump systems are available. Each uses the same principle of drawing energy from the earth to provide ideal indoor temperatures at a far lower cost than typical heating/cooling equipment. Both offer the advantages of total heating, cooling, air circulation, air filtration and dehumidification for your home.



Closed Loop System. To capture the constant temperatures stored below the earth's surface, water (sometimes treated with a non-freezing solution) is recirculated through special pipe installed in the ground, using the warmer earth temperature during the winter, and transferring heat to the cooler earth temperature in the summer.



Ground Water System. To retrieve the even temperatures stored in the earth, ground water is pumped to the Geo-Thermal Heat Pump. In the winter, the water supplies a constant heat source much higher than low temperature outdoor air. In the summer, the same temperature water is much cooler than the air on hot days, providing for more efficient removal of heat.

For more information, contact your local Geo-Thermal™ Heat Pump dealer:

THE GEO-THERMAL™ HEAT PUMP SYSTEM

TYPICAL GEO-THERMAL™ CLOSED LOOP SYSTEMS

STATE TAXATION

EXPORT NO. 6

DATE 3/11/91

BILL NO. SB 46

THE GEO-THERMAL™ HEAT PUMP SYSTEM MAY BE INSTALLED IN A CLOSET, ATTIC, EQUIPMENT ROOM OR BASEMENT.

TYPICAL VERTICAL
CLOSED LOOP
HEAT EXCHANGER

CONSTANT
EARTH
TEMPERATURE

HEAT REJECTED
WHEN COOLING

HEAT ABSORBED
WHEN HEATING

FLUID
FLOW
PATH

FOR MORE INFORMATION CONTACT:

POLYBUTYLENE OR
POLYETHYLENE HEAT
EXCHANGER - BORES ARE
4" DIAMETER MINIMUM, 10
FOOT MINIMUM SPACING

NO OUTDOOR EQUIPMENT

NO HAZARDOUS FLAMES OR FUMES

REDUCED FREE HOT WATER COSTS

ClimateMaster®

GEO-THERMAL™ HEAT PUMP SYSTEMS



ClimateMaster®

THE GEO-THERMAL™ HEAT PUMP SYSTEM

HIGH TECH. The latest high tech, high performance system that is revolutionizing the way we heat and cool our homes.

The ClimateMaster Geo-Thermal™ Heat Pump System is the latest high performance home environment system available and has established itself as the best system value for many reasons. It provides:

- Extremely high efficiency
- Low operating cost
- No outdoor equipment
- Longer equipment life
- Energy conservation
- Virtually free hot water
- Low maintenance costs
- No hazardous flames or fumes
- Clean operation
- Excellent return on investment

GEOTHERMAL. Borrowing the heat energy from the earth to heat and cool our homes.

The ClimateMaster Geo-Thermal™ Heat Pump System is an electrically powered device that uses the natural heat stored in the earth. The system simply moves heat from one place to another. By tapping the free geothermal heat stored within the earth under your own backyard, the System transfers the heat into your home to give you comfortable warm air in the winter.

In the summer the heat moving process is reversed, taking the heat out of your home and returning it to the earth, leaving your home cool and refreshingly comfortable.

HEAT EXCHANGER. Opening the door to free geothermal energy.

The ClimateMaster Geo-Thermal™ Heat Pump System collects heat from fluid that is circulated through a special "closed loop" pipe "heat exchanger" buried in the earth. Through extensive research by The Shell Oil Company and Phillips Petroleum Company, the pipe resins "Polybutylene" and "Polyethylene" were developed. These long life high density resins made the "heat exchanger" possible. They are the key to unlocking the earth's energy resources - free geothermal energy found in your own backyard.

SUBSTANTIAL SAVINGS. Savings up to 65% on your total heating, cooling and hot water costs.

Did you know that heating and cooling your home and your hot water requirements make up approximately 70% of your utility consumption? The ClimateMaster Geo-Thermal™ Heat Pump System can substantially reduce your operating costs in all three areas.

Proven savings up to: 70% on domestic hot water - - - - - 65% on heating - - - - - 35% on cooling

SAFETY FIRST. Simply the safest heating and cooling system available.

NO vents NO flames NO fumes

CLIMATEMASTER GEO-THERMAL™ HEAT PUMP SYSTEMS

7300 S.W. 44th Street • Oklahoma City, OK 73179 • (405) 745-6000 • FAX (405) 745-6058

**PROJECTED COST TO "KEEP WHOLE" STATE/LOCAL GOVERNMENT
RETIREES AT ALTERNATIVE PERCENTAGES OF BENEFITS**
(millions of dollars)

<u>Percentage</u>	<u>FY92</u>	<u>FY93</u>	<u>Biennium</u>
2.0%	2.67	2.98	5.65
2.5%	3.34	3.73	7.07
3.0%	4.01	4.47	8.48
3.5%	4.68	5.22	9.90
4.0%	5.35	5.96	11.31
4.5%	6.02	6.71	12.73
5.0%	6.68	7.45	14.13
5.5%	7.35	8.20	15.55
6.0%	8.02	8.94	16.96

REVENUE IMPACTS OF ALTERNATIVE RETIREMENT INCOME
BLANKET EXCLUSION LEVELS
(millions of dollars)

<u>Exclusion</u>	<u>FY92</u>	<u>FY93</u>	<u>Biennium</u>
\$ 0	18.91	20.80	39.71
\$ 3,600	10.43	11.47	21.90
\$ 4,000	9.70	10.67	20.38
\$ 4,500	8.89	9.78	18.68
\$ 5,000	8.19	9.01	17.20
\$ 6,000	6.81	7.49	14.31
\$ 7,000	5.61	6.18	11.79
\$ 8,000	4.55	5.00	9.55
\$ 9,000	3.36	3.99	7.62
\$10,000	2.82	3.10	5.92
\$11,000	2.14	2.36	4.50
\$12,000	1.55	1.70	3.25

7
3/11/91
SB 226

REVENUE IMPACTS OF ALTERNATIVE RETIREMENT INCOME
BLANKET EXCLUSION LEVELS
(millions of dollars)

<u>Exclusion</u>	<u>FY92</u>	<u>FY93</u>	<u>Biennium</u>
\$ 4,000	9.70	10.67	20.38
\$ 4,500	8.89	9.78	18.68
\$ 5,000	8.19	9.01	17.20
\$ 7,000	5.61	6.18	11.79

Amendments to Senate Bill No. 226
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
March 7, 1991

1. Title, lines 7 through 9.

Strike: "A" on line 7 through "LESS" on line 9

Insert: "AN EXEMPTION OF \$3,600 FROM TAXATION OF BENEFITS FROM
FEDERAL, STATE, AND PRIVATE RETIREMENT, ANNUITY, PENSION,
AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE FOR AN ADJUSTMENT
PAYMENT TO RETIREES OF STATE, LOCAL, AND TEACHER RETIREMENT
SYSTEMS WHO ARE MONTANA RESIDENTS"

2. Title, line 9.

Strike: "15-30-101,"

3. Title, line 11.

Following: "19-8-805,"

Insert: "19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003,"

4. Title, lines 11 and 12.

Strike: "REPEALING" on line 11 through "MCA;" on line 12

5. Page 1.

Following: line 15

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

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

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

WHEREAS, it is the policy of the State of Montana to
encourage public employees who become superannuated or
incapacitated to retire and, to that end, to provide sufficient
benefits to provide for retirement; and

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

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

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

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

benefits.

STATEMENT OF INTENT

A statement of intent is required for this bill because the public employees' retirement board and the teachers' retirement board must establish a percentage rate to provide a uniform adjustment payment rate to all members of public retirement systems as provided in [section 4]."

6. Pages 1 through 20.

Strike: everything after the enacting clause

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

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

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

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

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

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

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

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

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

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

(i) under the Federal Employees' Retirement Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

determine the amount of income or loss of the partnership or small business corporation.

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

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

(8) A person receiving benefits described in subsections ~~(2)(d) through (2)(f), (2)(h), or (2)(i)~~ may not exclude benefits described in subsection (2)(e) from adjusted gross income unless the benefits received under subsections ~~(2)(d) through (2)(f), (2)(h), or (2)(i)~~ are less than \$3,600, in which case the person may subsection (2)(c) shall combine benefits specified in subsections (2)(c)(i) through (2)(c)(iii) to exclude up to not more than a total of \$3,600 from adjusted gross income.

(Subsection ~~(2)(h)~~ (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

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

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

- (a) dividends;
- (b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:
 - (i) the United States government or the state of Montana;
 - (ii) a school district; or
 - (iii) a county, municipality, district, or other political subdivision of the state;
- (c) income from partnerships and other fiduciaries;
- (d) gross rents and royalties;

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

(f) gross profit from trade or business; and

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

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

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

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

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

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

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

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

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

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

(i) as federal employees' retirement;

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

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

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

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

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

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

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

~~or children;~~

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

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

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

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

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

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

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

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

NEW SECTION. Section 3. Retirement adjustment -- annual deposit -- legislative appropriation. (1) There is allocated from the general fund to the public employees' retirement board and the teachers' retirement board the amounts provided in subsection (2) for distribution to members of retirement systems as provided in [section 4].

(2) On or before May 1 of each year, the state treasurer shall pay to the public employees' retirement board and the teachers' retirement board an amount equal to 2.5% of the total benefits paid by both systems during the prior calendar year. In distributing the appropriations to the boards, the treasurer shall consult with the boards to determine the amounts necessary for uniform payments to members. The amount of the benefits must be certified to the treasurer by the public employees' retirement board and the teachers' retirement board no later than April 1 of each year. For the purpose of this section, the public employees' retirement board shall collect information and certify the amount of benefits paid pursuant to Title 19, chapters 10 and 11. Not later than February 15 of each year, the boards of trustees of local police retirement funds, provided in 19-10-201, and boards

of trustees of local fire department relief associations, provided in 19-11-104, shall submit reports on benefit payments containing information requested by the public employees' retirement board.

(3) This section provides for the allocation of money from the general fund to the public employees' retirement board and the teachers' retirement board for distribution to members. An allocation may not be made from the general fund until appropriated by the legislature.

NEW SECTION. Section 4. Montana retirement adjustment payments -- public employees' retirement board. (1) Not later than June 1 of each year, the public employees' retirement board and the teachers' retirement board shall fix and pay to those members entitled to it an annual adjustment payment. The adjustment payment is determined for each system based upon the benefits paid by the system in the prior calendar year and on the annual benefit to which each Montana resident member of the system is entitled.

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

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

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

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

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

Section 5. Section 19-3-105, MCA, is amended to read:

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

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

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

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

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

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

Section 6. Section 19-4-706, MCA, is amended to read:

"19-4-706. Exemption from taxation and legal process. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

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

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

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

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

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

Section 7. Section 19-5-704, MCA, is amended to read:

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

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

Section 8. Section 19-6-705, MCA, is amended to read:

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

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

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

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

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

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

Section 9. Section 19-7-705, MCA, is amended to read:

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

(1) exempt from any state, county, or municipal tax except for:
(a) a retirement allowance received in excess of \$3,600; or
(b) a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;
(2) exempt from levy, sale, garnishment, attachment, or any other process; and
(3) unassignable except as specifically provided in 19-7-706."

Section 10. Section 19-8-805, MCA, is amended to read:
"19-8-805. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:
(a) a retirement allowance received in excess of \$3,600; or
(b) a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;
(2) exempt from levy, sale, garnishment, attachment, or any other process; and
(3) unassignable except as specifically provided in 19-8-806."

Section 11. Section 19-9-1005, MCA, is amended to read:
"19-9-1005. Exemption from taxes. Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except for:

(1) a retirement allowance received in excess of \$3,600; or
(2) a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 12. Section 19-10-504, MCA, is amended to read:
"19-10-504. Protection of benefits from legal process and taxation. (1) The benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-10-505.

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

Section 13. Section 19-11-612, MCA, is amended to read:
"19-11-612. Protection of benefits from legal process and taxation -- nonassignability. (1) Any payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum so assigned.

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

Section 14. Section 19-12-407, MCA, is amended to read:
"19-12-407. Payment of pension benefits -- exemption from

taxation. (1) All payments under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the beneficiary as provided in 19-12-405(1).

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

Section 15. Section 19-13-1003, MCA, is amended to read:

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

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

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

Section 16. Section 19-21-212, MCA, is amended to read:

"19-21-212. Exemption from taxation, legal process, and assessments. All contracts, benefits, and contributions under the optional retirement program and the earnings thereon are:

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

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

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

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

Change
NEW SECTION. Section 17. ~~Nonseverability.~~ It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

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

NEW SECTION. Section 19. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990."

SENATE STANDING COMMITTEE REPORT

Page 1 of 11
March 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 226 (first reading copy - white), respectfully report that Senate Bill No. 226 be amended and as so amended do pass:

1. Title, lines 7 through 9.

Strike: "A" on line 7 through "LESS" on line 9

Insert: "AN EXEMPTION OF \$3,500 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE, AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE FOR AN ADJUSTMENT PAYMENT TO RETIERS OF STATE, LOCAL, AND TEACHER RETIREMENT SYSTEMS WHO ARE MONTANA RESIDENTS"

2. Title, line 9.

Strike: "15-30-101,"

3. Title, line 11.

Following: "19 8-805,"

Insert: "19 9 1005, 19 10 504, 19 11 612, 19 12 407, 19 13 1001,"

4. Title, lines 11 and 12.

Strike: "REPEALING" on line 11 through "HCA;" on line 12

5. Page 1.

Following: line 15

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

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

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

WHEREAS, it is the policy of the State of Montana to encourage public employees who become superannuated or incapacitated to retire and, to that end, to provide sufficient benefits to provide for retirement; and

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

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

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

STATEMENT OF INTENT

A statement of intent is required for this bill because the public employees' retirement board and the teachers' retirement board must establish a percentage rate to provide a uniform adjustment payment rate to all members of public retirement systems as provided in [section 4]."

6. Pages 1 through 20.

Strike: everything after the enacting clause

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

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

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

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

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

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

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

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

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

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

(i) under the Federal Employees' Retirement Act;

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

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

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

the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

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

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

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

(8) A person receiving benefits described in subsections ~~(2)(d) through (2)(f), (2)(h), or (2)(i)~~ may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections ~~(2)(d) through (2)(f), (2)(h), or (2)(i)~~ are less than \$3,600; in which case the person may subsection (2)(c) shall combine benefits specified in subsections (2)(c)(i) through (2)(c)(iii) to exclude up to not more than a total of \$3,600 from adjusted gross income.

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

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

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

(i) as federal employees' retirement;

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

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

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

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

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

~~(l)(1) Montana income tax refunds or tax refund credits thereof;~~

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

~~(n) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-105.~~

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

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

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

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

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

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

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

NEW SECTION. Section 3. Retirement adjustment -- annual deposit. (1) There is allocated to the public employees' retirement board and the teachers' retirement board the amounts provided in subsection (2) for distribution to members of retirement systems as provided in [section 4].

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

NEW SECTION. Section 4. Montana retirement adjustment payments -- public employees' retirement board. (1) Not later than June 1 of each year, the public employees' retirement board and the teachers' retirement board shall fix and pay to those members entitled to it an annual adjustment payment. The adjustment payment is determined for each system based upon the benefits paid by the system in the prior calendar year and on the annual benefit to which each Montana resident member of the system is entitled.

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

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

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

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

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

Section 5. Section 19-3-105, MCA, is amended to read:

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

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

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

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

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

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

Section 6. Section 19-4-706, MCA, is amended to read:

"19-4-706. Exemption from taxation and legal process. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

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

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

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

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

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

Section 7. Section 19-5-704, MCA, is amended to read:

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

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

Section 8. Section 19-6-705, MCA, is amended to read:

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

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

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

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

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

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

Section 9. Section 19-7-705, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 11. Section 19-9-1005, MCA, is amended to read:

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

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

(2) a refund paid under 19-9-604 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 12. Section 19-10-504, MCA, is amended to read:

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

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

Section 13. Section 19-11-612, MCA, is amended to read:

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

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

Section 14. Section 19-12-407, MCA, is amended to read:

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

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

Section 15. Section 19-13-1003, HCA, is amended to read:

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

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

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

Section 16. Section 19-21-212, HCA, is amended to read:

"19-21-212. Exemption from taxation, legal process, and assessments. All contracts, benefits, and contributions under the optional retirement program and the earnings thereon are:

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

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

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

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

NEW SECTION. Section 17. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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

NEW SECTION. Section 19. Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990."

Signed: _____

Mike Halligan, Chairman

3-11-91
Amd. Coord.

SR 3-11 1:50
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/11/91 SB Bill No. 226 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN	X	
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

Jeff D. O'Sullivan
Secretary

Senator Mike Halligan
Chairman

Motion:

My Senator Tame that SB-226
Be Pass Be Amended

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 151 (third reading copy - blue), respectfully report that House Bill No. 151 be amended and as so amended be concurred in:

1. Page 3, line 7.

Strike: "THE RATIO"

2. Page 3, line 8.

Strike: the first "OF"

3. Page 3, lines 8 and 9.

Strike: "REMAINING" on line 8 through "REMOVED" on line 9

Insert: "that the property was in the state"

4. Page 3, line 9.

Strike: "12"

Insert: "the number of months from when the property was first in the state to the end of the year. The refund may not exceed the amount of the tax paid"

5. Page 3.

Following: line 9

Insert: "(4) For the purposes of this section, "month" means any part of a calendar month."

Signed: _____

Mike Halligan, Chairman

3-11-91
Add. Coord.

SR 3-11 1:50
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 481 (third reading copy -- blue), respectfully report that House Bill No. 481 be concurred in.

Signed: _____

Mike Halligan, Chairman

LB 3/11/91

Amd. Coord.

SC 3/11 11:45

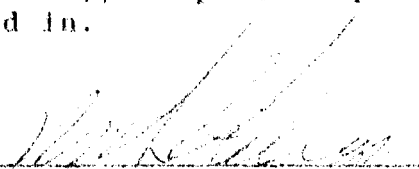
Sec. of Senate

SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 313 (third reading copy -- blue), respectfully report that House Bill No. 313 be concurred in.

Signed: 
Mike Halligan, Chairman

LB3/11/91
Amd./Coord.


Sec. of Senate