

HOUSE BILL 73

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Taxation.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to prefiled bills.
January 18, 1979	Committee recommend bill, as amended.
January 19, 1979	Printed and placed on members' desks.
January 20, 1979	On motion, rules suspended and bill placed on second reading this day.  Second reading, do pass.
January 22, 1979	Considered correctly engrossed.
January 23, 1979	Third reading, passed.

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

HOUSE BILL NO. 73

INTRODUCED BY \_\_\_\_\_

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING 15-30-111, MCA, TO REVISE THE DEFINITION OF ADJUSTED GROSS INCOME BY PROVIDING FOR THE TAXATION OF CERTAIN LUMP-SUM SETTLEMENTS NOT CURRENTLY SUBJECT TO TAX BY VIRTUE OF CHANGES IN THE INTERNAL REVENUE CODE AND THE DEDUCTION OF CERTAIN SALARIES AND WAGES NOT DEDUCTIBLE IN DETERMINING FEDERAL ADJUSTED GROSS INCOME; PROVIDING AN IMMEDIATE EFFECTIVE DATE; AND PROVIDING FOR RETROACTIVE APPLICATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 ~~and~~

~~(c) the portion of lump-sum distribution deductible from adjusted gross income under section 62(11) of the Internal Revenue Code of 1954 or as that section may be amended.~~

(2) Adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) interest income from obligations of the United States government, the state of Montana ~~and its county counties, municipality municipalities, district districts,~~ or other political subdivision thereof;

(b) all benefits received under the Federal Employees' Retirement Act not in excess of \$3,600;

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

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

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

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

(g) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans;

1 (h) all benefits paid by first- or second-class cities  
2 for the policemen's retirement system provided for by Title  
3 19, chapter 9.

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

18 (4) In determining Montana income tax adjusted gross  
19 income, there shall be deducted from federal income tax  
20 adjusted gross income the amount by which the taxpayer's  
21 federal income tax deduction for salaries and wages must be  
22 reduced pursuant to the provisions of section 280C of the  
23 Internal Revenue Code of 1954, relating to the jobs credit  
24 allowance."

25 Section 2. Effective date. This act is effective on

1 its passage and approval.

2 Section 3. Retroactive application. The provisions of  
3 15-30-111(1)(c) apply to taxable periods beginning after  
4 December 31, 1978, and the provisions of 15-30-111(4) apply  
5 to taxable years beginning after December 31, 1976.

-End-

## STATE OF MONTANA

REQUEST NO. 10-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 79, there is hereby submitted a Fiscal Note for House Bill 73 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION:

An act to revise the definition of adjusted gross income by providing for the taxation of certain lump-sum settlements not currently subject to tax by virtue of changes in the Internal Revenue Code and the deduction of certain salaries and wages not deductible in determining Federal adjusted gross income; providing an immediate effective date; and providing for retro-active application.

## ASSUMPTIONS:

- (a) 180 taxpayers receiving lump-sum settlements will be taxed under the proposed law.
- (b) The average lump-sum settlement is \$5000.
- (c) No additional deductions for business expenses pertaining to the new jobs tax credit will be claimed as a result of passage of the proposed law, since it is believed that this law would only legitimize the current practice of allowing the deduction.
- (d) The Department of Revenue forecast of individual income tax collections for FY80 and FY81 (\$154.268 million in FY80, \$169.790 million in FY81) is the basis for comparison.

## FISCAL IMPACT:

	<u>FY80</u>	<u>FY81</u>
Individual Income Tax Collections		
under current law	\$154,268,000	\$169,790,000
under proposed law	<u>154,318,000</u>	<u>169,840,000</u>
Estimated Increase	<u>\$ 50,000</u>	<u>\$ 50,000</u>

## FUND INFORMATION:

General Fund	\$ 37,500	\$ 37,500
Public School Equalization Earmarked		
Revenue Account	<u>12,500</u>	<u>12,500</u>
	<u>\$ 50,000</u>	<u>\$ 50,000</u>

It is noted that revenues to the Public School Equalization Earmarked Revenue Account are used to support the Public School Foundation Program; therefore, any increase in revenues to that account may either (1) be appropriated to increase Foundation Program schedules, (2) be appropriated to offset State General Fund support of the Foundation Program, or (3) be appropriated to offset any unanticipated shortfall in revenues for public school equalization.

## AFFECT ON LOCAL GOVERNMENTS:

No local impact.

## LONG-RANGE EFFECTS:

Revenues would be increased by approximately 0.03% from the levels which would obtain under continuation of present law.

*Richard L. Drayton*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/14/79

Approved by Committee  
on Taxation

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(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 and

(c) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1978, the portion of lump-sum distribution deductible from adjusted gross income under section 62(1)(1) of the Internal Revenue Code of 1954 or as that section may be amended.

(2) Adjusted gross income does not include the following which are exempt from taxation under this chapter:

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

(b) all benefits received under the Federal Employees' Retirement Act not in excess of \$3,600;

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 5 for the policemen's retirement system provided for by Title  
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7 (i) In the case of a shareholder of a corporation with  
 8 respect to which the election provided for under subchapter  
 9 S. of the Internal Revenue Code of 1954, as amended, is in  
 10 effect but with respect to which the election provided for  
 11 under 15-31-202, as amended, is not in effect, adjusted  
 12 gross income does not include any part of the corporation's  
 13 undistributed taxable income, net operating loss, capital  
 14 gains or other gains, profits, or losses required to be  
 15 included in the shareholder's federal income tax adjusted  
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 17 S. However, the shareholder's adjusted gross income shall  
 18 include actual distributions from the corporation to the  
 19 extent they would be treated as taxable dividends if the  
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21 (4) IN DETERMINING MONTANA INCOME TAX ADJUSTED GROSS  
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1 reduced pursuant to the provisions of section 230C of the  
 2 Internal Revenue Code of 1954, relating to the jobs credit  
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