

HOUSE BILL NO. 231

1/17 Introduced
1/17 Referred to Taxation
1/18 Fiscal Note Requested
1/25 Fiscal Note Received
1/29 Hearing
Died in Committee

1 (i) all benefits paid under 19-11-602, 19-11-604, and
2 19-11-605 to retired and disabled firefighters, their
3 surviving spouses and orphans;

4 (j) all benefits paid by first- or second-class cities
5 for the policemen's retirement system provided for by Title
6 19, chapter 9;

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

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

14 (3) In the case of a shareholder of a corporation with
15 respect to which the election provided for under subchapter
16 S. of the Internal Revenue Code of 1954, as amended, is in
17 effect but with respect to which the election provided for
18 under 15-31-202, as amended, is not in effect, adjusted
19 gross income does not include any part of the corporation's
20 undistributed taxable income, net operating loss, capital
21 gains or other gains, profits, or losses required to be
22 included in the shareholder's federal income tax adjusted
23 gross income by reason of the said election under subchapter
24 S. However, the shareholder's adjusted gross income shall
25 include actual distributions from the corporation to the

1 extent they would be treated as taxable dividends if the
2 subchapter S. election were not in effect.

3 (4) A shareholder of a DISC that is exempt from the
4 corporation license tax under 15-31-102(1)(1) shall include
5 in his adjusted gross income the earnings and profits of the
6 DISC in the same manner as provided by federal law (section
7 995, Internal Revenue Code) for all periods for which the
8 DISC election is effective.

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

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

22 "15-30-136. Computation of income of estates or trusts
23 -- exemption. (1) Except as otherwise provided in this
24 chapter, "gross income" of estates or trusts means all
25 income from whatever source derived in the taxable year,

1 including but not limited to the following items:

2 (a) dividends;

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

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

10 (ii) a school district; or

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

13 (c) income from partnerships and other fiduciaries;

14 (d) gross rents and royalties;

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

19 (f) gross profit from trade or business; and

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

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

25 (a) interest expenses deductible for federal tax

1 purposes according to section 163 of the Internal Revenue
2 Code of 1954, as amended;

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

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

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

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

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

23 (g) net operating loss deductions allowed for federal
24 income tax under section 642(d) of the Internal Revenue Code
25 of 1954, as amended, except estates may not claim losses

1 that are deductible on the decedent's final return;

2 (h) all benefits received as federal employees'

3 retirement or retirement as a public employee of a state

4 other than Montana not in excess of \$3,600;

5 (i) all benefits paid under the Montana teachers'

6 retirement system that are specified as exempt from taxation

7 by 19-4-706;

8 (j) all benefits paid under the Montana Public

9 Employees' Retirement System Act that are specified as

10 exempt from taxation by 19-3-105;

11 (k) all benefits paid under the Montana highway

12 patrolmen's retirement system that are specified as exempt

13 from taxation by 19-6-705;

14 (l) Montana income tax refunds or credits thereof;

15 (m) all benefits paid under 19-11-602, 19-11-604, and

16 19-11-605 to retired and disabled firemen or their surviving

17 spouses or children;

18 (n) all benefits paid by first- or second-class cities

19 for the Montana police officers' retirement system provided

20 for by the metropolitan police law;

21 (o) all benefits not in excess of ~~\$360~~ \$3,600 received

22 as an annuity, pension, or endowment under private or

23 corporate retirement plans or systems.

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

25 respect to which the election provided for under subchapter

1 S. of the Internal Revenue Code of 1954, as amended, is in

2 effect but with respect to which the election provided for

3 under 15-31-202 is not in effect, net income does not

4 include any part of the corporation's undistributed taxable

5 income, net operating loss, capital gains or other gains,

6 profits, or losses required to be included in the

7 shareholder's federal income tax net income by reason of the

8 election under subchapter S. However, the shareholder's net

9 income shall include actual distribution from the

10 corporation to the extent it would be treated as taxable

11 dividends if the subchapter S. election were not in effect.

12 (4) The following additional deductions shall be

13 allowed in deriving taxable income of estates and trusts:

14 (a) any amount of income for the taxable year

15 currently required to be distributed to beneficiaries for

16 such year;

17 (b) any other amounts properly paid or credited or

18 required to be distributed for the taxable year;

19 (c) the amount of 60% of the excess of the net

20 long-term capital gain over the net short-term capital loss

21 for the taxable year.

22 (5) The exemption allowed for estates and trusts is

23 that exemption provided in 15-30-112(2)(a) and

24 15-30-112(8)."

25 NEW SECTION. Section 3. Extension of authority. Any

1 existing authority of the department of revenue to make
2 rules on the subject of the provisions of this act is
3 extended to the provisions of this act.

4 NEW SECTION. Section 4. Applicability. This act
5 applies to taxable years beginning after December 31, 1984.

6 NEW SECTION. Section 5. Effective date. This act is
7 effective on passage and approval.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN134-85

Form BD-15

In compliance with a written request received January 18 19 85, there is hereby submitted a Fiscal Note for H.B. 231 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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.

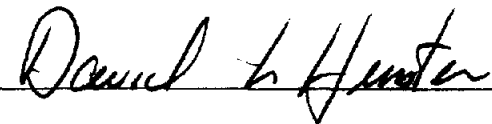
DESCRIPTION:

An act to exempt from taxation up to \$3,600 of public retirement benefits paid by another state and to increase the exemption for private and corporate retirement benefits from \$360 to \$3,600; amending sections 15-30-111 and 15-30-136, MCA; and providing an applicability date and an immediate effective date.

ASSUMPTIONS:

1. Sample statistics on private retirement returns apply to future years.
2. Approximately 15,270 taxpayers will claim the private retirement exemption (1983 count) for an average tax savings per return of \$88.51.
3. Individual income tax collections will be \$192,915,625 and \$204,103,125 in FY86 and FY87, respectively (OBPP).

	<u>Under</u> <u>Current Law</u>	<u>FY86</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Decrease</u>	<u>Under</u> <u>Current Law</u>	<u>FY87</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Decrease</u>
Individual Income Tax	192,915,625	191,564,017	(1,351,608)	204,103,125	202,751,517	(1,351,608)
Fund Information:						
General Fund	123,466,000	122,600,971	(865,029)	130,626,000	129,760,971	(865,029)
Earmarked Special Revenue Fund	48,228,906	47,891,004	(337,902)	51,025,781	50,687,879	(337,902)
Capitol Project Fund	21,220,719	21,072,042	(148,677)	22,451,344	22,302,667	(148,677)



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 23, 1985

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