

SENATE BILL NO. 346

2/06 Introduced
2/07 Referred to Taxation
2/08 Fiscal Note Requested
2/14 Fiscal Note Received
3/06 Tabled in Committee

1 Senate BILL NO. 346
 2 INTRODUCED BY Hager, Fuller
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBSTITUTE \$16,000
 5 FOR THE BASE AMOUNT IN SECTION 86(C)(3) OF THE INTERNAL
 6 REVENUE CODE OF 1954 AS USED IN CALCULATING SOCIAL SECURITY
 7 BENEFITS TO BE INCLUDED IN ADJUSTED GROSS INCOME FOR
 8 PURPOSES OF COMPUTING MONTANA INCOME TAXES; AMENDING SECTION
 9 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 10 AND AN APPLICABILITY DATE."
 11

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

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

14 "15-30-111. Adjusted gross income. (1) Adjusted gross
 15 income shall be the taxpayer's federal income tax adjusted
 16 gross income as defined in section 62 of the Internal
 17 Revenue Code of 1954 or as that section may be labeled or
 18 amended and in addition shall include the following:

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

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

25 (2) Notwithstanding the provisions of the federal

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

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

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

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

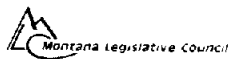
14 (d) all benefits, not in excess of \$360, received as
 15 an annuity, pension, or endowment under any private or
 16 corporate retirement plan or system;

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

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

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

25 (h) all Montana income tax refunds or credits thereof;



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 (6) A taxpayer who, in determining federal adjusted
22 gross income, must consider his social security benefits
23 under section 86 of the Internal Revenue Code of 1954, as
24 amended and applicable on January 1, 1984, and without
25 regard to any amendments made after that date, may

1 substitute \$16,000 for the base amount in section 86(c)(3).
2 If any amendment is made to section 86 of the Internal
3 Revenue Code of 1954 after January 1, 1984, social security
4 benefits must continue to be included in adjusted gross
5 income for state income tax purposes according to the
6 provisions of section 86 as they appeared on January 1,
7 1984, and the provisions of this subsection."

8 NEW SECTION. Section 2. Extension of authority. Any
9 existing authority of the department of revenue to make
10 rules on the subject of the provisions of this act is
11 extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date --
13 applicability. This act is effective on passage and approval
14 and applies retroactively, within the meaning of 1-2-109, to
15 taxable years beginning after December 31, 1983.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN377-85

Form **BD-15**

In compliance with a written request received February 11, 19 85, there is hereby submitted a Fiscal Note for S.B. 346 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 substitute \$16,000 for the base amount in section 86(c)(3) of the internal revenue code of 1954 as used in calculating social security benefits to be included in adjusted gross income for purposes of computing Montana income taxes.

ASSUMPTIONS

1. Individual income tax revenue is \$196,157,813 in FY1986 and \$209,890,625 in FY 1987.
2. There are 31,044 married couples in Montana with one spouse over the age of 65. Of these married couples 20,600 have both individuals over age 65.
3. 17.21% of married couples where one partner is age 65 or older have incomes in excess of \$32,000.
4. 37.5% of qualifying social security benefits are taxable.
5. Under current law the advantage of using the \$32,000 base outweighs the advantage of filing separately.
6. Under proposed law, the advantage of filing separately outweighs the advantage of using the \$32,000 base.
7. Marginal tax rate at the \$32,000 level is .0760; marginal tax rate at the \$16,000 level is .0575.

FISCAL IMPACT

		<u>FY1986</u>			<u>FY1987</u>	
	<u>Under</u>	<u>Under</u>	<u>Difference</u>	<u>Under</u>	<u>Under</u>	<u>Difference</u>
	<u>Current Law</u>	<u>Proposed Law</u>		<u>Current Law</u>	<u>Proposed Law</u>	
Individual Income Tax	196,157,813	195,884,783	(273,030)	209,890,625	209,603,397	(287,228)
TOTAL REVENUE	196,157,813	195,884,783	(273,030)	209,890,625	209,603,397	(287,228)
 Fund Information:						
Gen. Fund Earmarked Special	125,541,000	125,366,261	(174,739)	134,330,000	134,146,174	(183,826)
Revenue Fund	49,039,453	48,971,195	(68,258)	52,472,656	52,400,849	(71,807)
Capital Project Fund	21,577,360	21,547,327	(30,033)	23,087,969	23,056,374	(31,595)

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 14, 1985
SB 346