

SENATE BILL NO. 74

INTRODUCED BY MAZUREK, MCCALLUM, CRIPPEN, ECK, SCHYE,
KITSELMAN, MANNING, ASAY, SWIFT, HAGER

IN THE SENATE

JANUARY 8, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 16, 1987 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 17, 1987 PRINTING REPORT.

FEBRUARY 18, 1987 SECOND READING, DO PASS.

FEBRUARY 19, 1987 ENGROSSING REPORT.

FEBRUARY 20, 1987 THIRD READING, PASSED.
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

APRIL 9, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 11, 1987 SECOND READING, CONCURRED IN.

APRIL 13, 1987 THIRD READING, CONCURRED IN.
AYES, 91; NOES, 2.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 16, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 20, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1987

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 21, 1987

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

ON MOTION, RECONSIDER PREVIOUS ACTION
AND PLACE ON SECOND READING.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT REJECTED.

IN THE HOUSE

APRIL 21, 1987

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT REJECTED.

ON MOTION, FREE CONFERENCE COMMITTEE
NO. 2 REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 21, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
NO. 2 REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE NO. 2 REPORTED.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON SECOND READING THIS DAY.

SECOND READING, FREE CONFERENCE
COMMITTEE NO. 2 REPORT ADOPTED.

APRIL 22, 1987

THIRD READING, FREE CONFERENCE
COMMITTEE NO. 2 REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1987

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 23, 1987

SENT TO ENROLLING.

1 *Senate* BILL NO. *74*
 2 INTRODUCED BY *Maquah McCallister Crippen*
 3 *Eck Selge K. Belmann Richard Manning Guy Swift*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM TAXATION *Heg*
 5 UP TO \$3,600 OF PUBLIC RETIREMENT BENEFITS PAID BY ANOTHER
 6 STATE AND TO INCREASE THE EXEMPTION FOR PRIVATE AND
 7 CORPORATE RETIREMENT BENEFITS FROM \$360 TO \$3,600; AMENDING
 8 SECTIONS 15-30-111 AND 15-30-136, MCA; AND PROVIDING AN
 9 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

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

13 "15-30-111. Adjusted gross income. (1) Adjusted gross
14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
17 amended and in addition shall include the following:

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

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

24 (c) that portion of a shareholder's income under
25 subchapter S. of Chapter 1 of the Internal Revenue Code of

1 1954 that has been reduced by any federal taxes paid by the
2 subchapter S. corporation on the income.

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

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

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

15 (c) all benefits received under the Federal Employees'
16 Retirement Act or the public employee retirement laws of a
17 state other than Montana not in excess of \$3,600;

18 (d) all benefits, not in excess of \$360 \$3,600,
19 received as an annuity, pension, or endowment under any
20 private or corporate retirement plan or system;

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

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



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

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

5 (i) all benefits paid under 19-11-602, 19-11-604, and
6 19-11-605 to retired and disabled firefighters, their
7 surviving spouses and orphans;

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

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

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

18 (m) all benefits received under the workers'
19 compensation laws; and

20 (n) all health insurance premiums paid by an employer
21 for an employee if attributed as income to the employee
22 under federal law.

23 (3) In the case of a shareholder of a corporation with
24 respect to which the election provided for under subchapter
25 S. of the Internal Revenue Code of 1954, as amended, is in

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

12 (4) A shareholder of a DISC that is exempt from the
13 corporation license tax under 15-31-102(1)(1) shall include
14 in his adjusted gross income the earnings and profits of the
15 DISC in the same manner as provided by federal law (section
16 995, Internal Revenue Code) for all periods for which the
17 DISC election is effective.

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

1 credit. In the case of a partnership or small business
2 corporation, the deduction must be made to determine the
3 amount of income or loss of the partnership or small
4 business corporation.

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

13 (7) A taxpayer receiving retirement disability
14 benefits who has not attained age 65 by the end of the
15 taxable year and who has retired as permanently and totally
16 disabled may exclude from adjusted gross income up to \$100
17 per week received as wages or payments in lieu of wages for
18 a period during which the employee is absent from work due
19 to the disability. If the adjusted gross income before this
20 exclusion and before application of the two-earner married
21 couple deduction exceeds \$15,000, the excess reduces the
22 exclusion by an equal amount. This limitation affects the
23 amount of exclusion, but not the taxpayer's eligibility for
24 the exclusion. If eligible, married individuals shall apply
25 the exclusion separately, but the limitation for income

1 exceeding \$15,000 is determined with respect to the spouses
2 on their combined adjusted gross income. For the purpose of
3 this subsection, permanently and totally disabled means
4 unable to engage in any substantial gainful activity by
5 reason of any medically determined physical or mental
6 impairment lasting or expected to last at least 12 months.
7 (Subsection (2)(1) terminates on occurrence of
8 contingency--sec. 3, Ch. 634, L. 1983.)"

9 Section 2. Section 15-30-136, MCA, is amended to read:
10 "15-30-136. Computation of income of estates or trusts
11 -- exemption. (1) Except as otherwise provided in this
12 chapter, "gross income" of estates or trusts means all
13 income from whatever source derived in the taxable year,
14 including but not limited to the following items:

- 15 (a) dividends;
- 16 (b) interest received or accrued, including interest
17 received on obligations of another state or territory or a
18 county, municipality, district, or other political
19 subdivision thereof, but excluding interest income from
20 obligations of:
- 21 (i) the United States government or the state of
22 Montana;
- 23 (ii) a school district; or
- 24 (iii) a county, municipality, district, or other
25 political subdivision of the state;

1 (c) income from partnerships and other fiduciaries;
 2 (d) gross rents and royalties;
 3 (e) gain from sale or exchange of property, including
 4 those gains that are excluded from gross income for federal
 5 fiduciary income tax purposes by section 641(c) of the
 6 Internal Revenue Code of 1954, as amended;
 7 (f) gross profit from trade or business; and
 8 (g) refunds recovered on federal income tax, to the
 9 extent the deduction of such tax resulted in a reduction of
 10 Montana income tax liability.

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

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

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

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

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

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

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

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

15 (h) all benefits received as federal employees'
 16 retirement or retirement as a public employee of a state
 17 other than Montana not in excess of \$3,600;

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

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

24 (k) all benefits paid under the Montana highway
 25 patrolmen's retirement system that are specified as exempt

1 from taxation by 19-6-705;

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

3 (m) all benefits paid under 19-11-602, 19-11-604, and
4 19-11-605 to retired and disabled firemen or their surviving
5 spouses or children;

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

9 (o) all benefits not in excess of ~~9360~~ \$3,600 received
10 as an annuity, pension, or endowment under private or
11 corporate retirement plans or systems.

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

25 (4) The following additional deductions shall be

1 allowed in deriving taxable income of estates and trusts:

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

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

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

10 (5) The exemption allowed for estates and trusts is
11 that exemption provided in 15-30-112(2)(a) and
12 15-30-112(8)."

13 NEW SECTION. Section 3. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 4. Applicability. This act
18 applies to taxable years beginning after December 31, 1986.

19 NEW SECTION. Section 5. Effective date. This act is
20 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB074, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

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; providing an applicability date and an immediate effective date.

ASSUMPTIONS:

1. Revenue estimates are based on Revenue Estimating Advisory Council estimates of individual income tax revenues for fiscal years 1988 and 1989.
2. Based on Department of Revenue computer simulations of calendar year 1984 tax returns, approximately 17,328 households would each experience an average tax decrease of \$112.88.
3. Every return currently claiming \$360 of private retirement income will claim the full \$3,600 allowed under the proposed legislation.

FISCAL IMPACT:

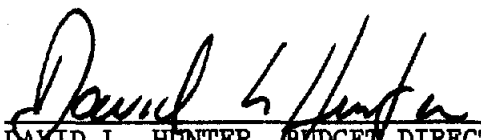
	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Individual Income Tax	\$208,088,000	\$206,132,000	\$(1,956,000)	\$229,991,000	\$228,035,000	\$(1,956,000)
<u>Funding:</u>						
General Fund	\$133,176,000	\$131,924,000	\$(1,252,000)	\$147,194,000	\$145,942,000	\$(1,252,000)
Foundation Program	52,022,000	51,533,000	(489,000)	57,498,000	57,009,000	(489,000)
Sinking Fund	22,890,000	22,675,000	(215,000)	25,299,000	25,084,000	(215,000)
TOTAL	\$208,088,000	\$206,132,000	\$(1,956,000)	\$229,991,000	\$228,035,000	\$(1,956,000)


EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

 DATE 1/14/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 1/15/87
 JOE MAZUREK, PRIMARY SPONSOR
 Fiscal Note for SB074, as introduced.

Fiscal Note Request, SB074, as introduced.

Form BD-15

Page 2

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

The above fiscal impacts do not include the impact of allowing a \$3,600 exclusion for residents receiving benefits from other states' public employee retirement systems. The number of these types of households is not known, but is believed to be small. This tends to understate the revenue effect shown above.

To the extent that households currently excluding \$360 of private retirement will not be able to use the full \$3,600 exclusion provided for in the proposed legislation, the revenue effect is overstated.

These two effects are assumed to be approximately equal.

APPROVED BY COMMITTEE
ON TAXATION

1 *Senate* BILL NO. *74*
2 INTRODUCED BY *Marjorie McCallum Crippen*
3 *Eck Selge Kibelmann Richard Manning*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM TAXATION
5 UP TO \$3,600 OF PUBLIC RETIREMENT BENEFITS PAID BY ANOTHER
6 STATE AND TO INCREASE THE EXEMPTION FOR PRIVATE AND
7 CORPORATE RETIREMENT BENEFITS FROM \$360 TO \$3,600; AMENDING
8 SECTIONS 15-30-111 AND 15-30-136, MCA; AND PROVIDING AN
9 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
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19 or territory or county, municipality, district, or other
20 political subdivision thereof;

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

24 (c) that portion of a shareholder's income under
25 subchapter S. of Chapter 1 of the Internal Revenue Code of

1 1954 that has been reduced by any federal taxes paid by the
2 subchapter S. corporation on the income.

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

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

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

15 (c) all benefits received under the Federal Employees'
16 Retirement Act or the public employee retirement laws of a
17 state other than Montana not in excess of \$3,600;

18 (d) all benefits, not in excess of ~~\$360~~ \$3,600,
19 received as an annuity, pension, or endowment under any
20 private or corporate retirement plan or system;

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

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



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

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

5 (i) all benefits paid under 19-11-602, 19-11-604, and
6 19-11-605 to retired and disabled firefighters, their
7 surviving spouses and orphans;

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

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

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

18 (m) all benefits received under the workers'
19 compensation laws; and

20 (n) all health insurance premiums paid by an employer
21 for an employee if attributed as income to the employee
22 under federal law.

23 (3) In the case of a shareholder of a corporation with
24 respect to which the election provided for under subchapter
25 S. of the Internal Revenue Code of 1954, as amended, is in

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

12 (4) A shareholder of a DISC that is exempt from the
13 corporation license tax under 15-31-102(1)(1) shall include
14 in his adjusted gross income the earnings and profits of the
15 DISC in the same manner as provided by federal law (section
16 995, Internal Revenue Code) for all periods for which the
17 DISC election is effective.

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19 gross income, has reduced his business deductions by an
20 amount for wages and salaries for which a federal tax credit
21 was elected under section 44B of the Internal Revenue Code
22 of 1954 or as that section may be labeled or amended is
23 allowed to deduct the amount of such wages and salaries paid
24 regardless of the credit taken. The deduction must be made
25 in the year the wages and salaries were used to compute the

1 credit. In the case of a partnership or small business
2 corporation, the deduction must be made to determine the
3 amount of income or loss of the partnership or small
4 business corporation.

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

13 (7) A taxpayer receiving retirement disability
14 benefits who has not attained age 65 by the end of the
15 taxable year and who has retired as permanently and totally
16 disabled may exclude from adjusted gross income up to \$100
17 per week received as wages or payments in lieu of wages for
18 a period during which the employee is absent from work due
19 to the disability. If the adjusted gross income before this
20 exclusion and before application of the two-earner married
21 couple deduction exceeds \$15,000, the excess reduces the
22 exclusion by an equal amount. This limitation affects the
23 amount of exclusion, but not the taxpayer's eligibility for
24 the exclusion. If eligible, married individuals shall apply
25 the exclusion separately, but the limitation for income

1 exceeding \$15,000 is determined with respect to the spouses
2 on their combined adjusted gross income. For the purpose of
3 this subsection, permanently and totally disabled means
4 unable to engage in any substantial gainful activity by
5 reason of any medically determined physical or mental
6 impairment lasting or expected to last at least 12 months.
7 (Subsection (2)(1) terminates on occurrence of
8 contingency--sec. 3, Ch. 634, L. 1983.)"

9 Section 2. Section 15-30-136, MCA, is amended to read:
10 "15-30-136. Computation of income of estates or trusts
11 -- exemption. (1) Except as otherwise provided in this
12 chapter, "gross income" of estates or trusts means all
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21 (i) the United States government or the state of
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25 political subdivision of the state;

1 (c) income from partnerships and other fiduciaries;
 2 (d) gross rents and royalties;
 3 (e) gain from sale or exchange of property, including
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 5 fiduciary income tax purposes by section 641(c) of the
 6 Internal Revenue Code of 1954, as amended;
 7 (f) gross profit from trade or business; and
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 9 extent the deduction of such tax resulted in a reduction of
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11 (2) In computing net income, there are allowed as
 12 deductions:

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19 (c) that fiduciary's portion of depreciation or
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 21 according to sections 167, 611, and 642 of the Internal
 22 Revenue Code of 1954, as amended;

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

1 (e) administrative expenses claimed for federal income
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 3 Internal Revenue Code of 1954, as amended, if such expenses
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 25 patrolmen's retirement system that are specified as exempt

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17 include any part of the corporation's undistributed taxable
18 income, net operating loss, capital gains or other gains,
19 profits, or losses required to be included in the
20 shareholder's federal income tax net income by reason of the
21 election under subchapter S. However, the shareholder's net
22 income shall include actual distribution from the
23 corporation to the extent it would be treated as taxable
24 dividends if the subchapter S. election were not in effect.

25 (4) The following additional deductions shall be

1 allowed in deriving taxable income of estates and trusts:

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

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

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

10 (5) The exemption allowed for estates and trusts is
11 that exemption provided in 15-30-112(2)(a) and
12 15-30-112(8)."

13 NEW SECTION. Section 3. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 4. Applicability. This act
18 applies to taxable years beginning after December 31, 1986.

19 NEW SECTION. Section 5. Effective date. This act is
20 effective on passage and approval.

-End-

1 SENATE BILL NO. 74

2 INTRODUCED BY MAZUREK, MCCALLUM, CRIPPEN, ECK, SCHYE,
3 KITSELMAN, MANNING, ASAY, SWIFT, HAGER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM TAXATION
6 UP TO \$3,600 OF PUBLIC RETIREMENT BENEFITS PAID BY ANOTHER
7 STATE AND TO INCREASE THE EXEMPTION FOR PRIVATE AND
8 CORPORATE RETIREMENT BENEFITS FROM \$360 TO \$3,600; AMENDING
9 SECTIONS 15-30-111 AND 15-30-136, MCA; AND PROVIDING AN
10 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE 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; and

25 (c) that portion of a shareholder's income under

1 subchapter S. of Chapter 1 of the Internal Revenue Code of
2 1954 that has been reduced by any federal taxes paid by the
3 subchapter S. corporation on the income.

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

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

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

16 (c) all benefits, NOT IN EXCESS OF \$3,600, received:
17 (I) under the Federal Employees' Retirement Act; or
18 (II) UNDER the public employee retirement laws of a
19 state other than Montana not-in-excess-of-\$360; OR

20 ~~(d) all benefits, not-in-excess-of \$360 \$3,600,~~
21 received (III) as an annuity, pension, or endowment under
22 any private or corporate retirement plan or system;

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

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

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

7 ~~h~~(G) all Montana income tax refunds or credits
8 thereof;

9 ~~i~~(H) all benefits paid under 19-11-602, 19-11-604,
10 and 19-11-605 to retired and disabled firefighters, their
11 surviving spouses and orphans;

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

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

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

22 ~~m~~(L) all benefits received under the workers'
23 compensation laws; and

24 ~~n~~(M) all health insurance premiums paid by an
25 employer for an employee if attributed as income to the

1 employee under federal law.

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

16 (4) A shareholder of a DISC that is exempt from the
17 corporation license tax under 15-31-102(1)(l) shall include
18 in his adjusted gross income the earnings and profits of the
19 DISC in the same manner as provided by federal law (section
20 995, Internal Revenue Code) for all periods for which the
21 DISC election is effective.

22 (5) A taxpayer who, in determining federal adjusted
23 gross income, has reduced his business deductions by an
24 amount for wages and salaries for which a federal tax credit
25 was elected under section 44B of the Internal Revenue Code

1 of 1954 or as that section may be labeled or amended is
 2 allowed to deduct the amount of such wages and salaries paid
 3 regardless of the credit taken. The deduction must be made
 4 in the year the wages and salaries were used to compute the
 5 credit. In the case of a partnership or small business
 6 corporation, the deduction must be made to determine the
 7 amount of income or loss of the partnership or small
 8 business corporation.

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

17 (7) A taxpayer receiving retirement disability
 18 benefits who has not attained age 65 by the end of the
 19 taxable year and who has retired as permanently and totally
 20 disabled may exclude from adjusted gross income up to \$100
 21 per week received as wages or payments in lieu of wages for
 22 a period during which the employee is absent from work due
 23 to the disability. If the adjusted gross income before this
 24 exclusion and before application of the two-earner married
 25 couple deduction exceeds \$15,000, the excess reduces the

1 exclusion by an equal amount. This limitation affects the
 2 amount of exclusion, but not the taxpayer's eligibility for
 3 the exclusion. If eligible, married individuals shall apply
 4 the exclusion separately, but the limitation for income
 5 exceeding \$15,000 is determined with respect to the spouses
 6 on their combined adjusted gross income. For the purpose of
 7 this subsection, permanently and totally disabled means
 8 unable to engage in any substantial gainful activity by
 9 reason of any medically determined physical or mental
 10 impairment lasting or expected to last at least 12 months.

11 (8) A PERSON RECEIVING BENEFITS DESCRIBED IN
 12 SUBSECTIONS (2)(D) THROUGH (2)(F) MAY NOT EXCLUDE BENEFITS
 13 DESCRIBED IN SUBSECTION (2)(C) FROM ADJUSTED GROSS INCOME
 14 UNLESS THE BENEFITS RECEIVED UNDER SUBSECTIONS (2)(D)
 15 THROUGH (2)(F) ARE LESS THAN \$3,600, IN WHICH CASE THE
 16 PERSON MAY COMBINE BENEFITS TO EXCLUDE UP TO A TOTAL OF
 17 \$3,600 FROM ADJUSTED GROSS INCOME. (Subsection (2)(l) (now
 18 (2)(k)) terminates on occurrence of contingency--sec. 3, Ch.
 19 634, L. 1983.)"

20 Section 2. Section 15-30-136, MCA, is amended to read:
 21 "15-30-136. Computation of income of estates or trusts
 22 -- exemption. (1) Except as otherwise provided in this
 23 chapter, "gross income" of estates or trusts means all
 24 income from whatever source derived in the taxable year,
 25 including but not limited to the following items:

1 (a) dividends;

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

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

9 (ii) a school district; or

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

12 (c) income from partnerships and other fiduciaries;

13 (d) gross rents and royalties;

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

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

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

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

24 (a) interest expenses deductible for federal tax
25 purposes according to section 163 of the Internal Revenue

1 Code of 1954, as amended;

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

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

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

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

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

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

1 (h) all benefits, NOT IN EXCESS OF \$3,600, received;

2 (I) as federal employees' retirement; or

3 (II) AS retirement as-a-public-employee-of FROM PUBLIC

4 EMPLOYMENT IN a state other than Montana not-in-excess-of

5 \$3,600; OR

6 (III) AS AN ANNUITY, PENSION, OR ENDOWMENT UNDER

7 PRIVATE OR CORPORATE RETIREMENT PLANS OR SYSTEMS;

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

9 retirement system that are specified as exempt from taxation

10 by 19-4-706;

11 (j) all benefits paid under the Montana Public

12 Employees' Retirement System Act that are specified as

13 exempt from taxation by 19-3-105;

14 (k) all benefits paid under the Montana highway

15 patrolmen's retirement system that are specified as exempt

16 from taxation by 19-6-705;

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

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

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

20 spouses or children;

21 (n) all benefits paid under the municipal police

22 officers' retirement system that are specified as exempt

23 from taxation by 19-9-1005;

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

25 ~~as an annuity, pension, or endowment under private or~~

1 ~~corporate retirement plans or systems.~~

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

3 respect to which the election provided for under subchapter

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

5 effect but with respect to which the election provided for

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

7 include any part of the corporation's undistributed taxable

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

9 profits, or losses required to be included in the

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

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

12 income shall include actual distribution from the

13 corporation to the extent it would be treated as taxable

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

15 (4) The following additional deductions shall be

16 allowed in deriving taxable income of estates and trusts:

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

18 currently required to be distributed to beneficiaries for

19 such year;

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

21 required to be distributed for the taxable year;

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

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

24 for the taxable year.

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

1 that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

2 (6) A TRUST OR ESTATE EXCLUDING BENEFITS UNDER
3 SUBSECTIONS (2)(I) THROUGH (2)(K) MAY NOT EXCLUDE BENEFITS
4 DESCRIBED IN SUBSECTION (2)(H) FROM NET INCOME UNLESS THE
5 BENEFITS RECEIVED UNDER SUBSECTIONS (2)(I) THROUGH (2)(K)
6 ARE LESS THAN \$3,600, IN WHICH CASE THE TRUST OR ESTATE MAY
7 COMBINE BENEFITS TO EXCLUDE UP TO A TOTAL OF \$3,600 FROM NET
8 INCOME."

9 NEW SECTION. Section 3. Extension of authority. Any
10 existing authority of the department of revenue to make
11 rules on the subject of the provisions of this act is
12 extended to the provisions of this act.

13 NEW SECTION. Section 4. Applicability. This act
14 applies to taxable years beginning after December 31, 1986.

15 NEW SECTION. Section 5. Effective date. This act is
16 effective on passage and approval.

-End-

CONFERENCE COMMITTEE REPORT

April 20, 1987.....

MR. PRESIDENT

We, your Free Conference Committee on

Senate Bill 74

met and considered Senate Bill 74 in its entirety.

We recommend as follows:

THAT SENATE BILL 74, reference copy salmon, BE AMENDED AS FOLLOWS:

1. Page 6, line 12.

Strike: " THROUGH "

Insert: ", (2)(e),"

Following: " (2)(F) "

Insert: ", (2)(h), or (2)(i) "

2. Page 6, line 15.

Strike: " THROUGH "

Insert: ", (2)(e),"

Following: " (2)(F) "

Insert: ", (2)(h), or (2)(i) "

And that this Conference Committee report be adopted.

FOR THE SENATE

D. Mazurek
Mazurek, Chairman

George McCallum
McCallum

Bob Brown
Brown

FOR THE HOUSE

Orval Ellison
Ellison

Robert Hoffman
Hoffman

Francis Koehnke
Koehnke

ADOPT REJECT

VB

CONFERENCE COMMITTEE REPORT

Report No.2.....

April 21, 19 87

MR. PRESIDENT

We, your _____ Free _____ Conference Committee on

_____ Senate Bill 74 _____

met and considered _____ Senate Bill 74 in its entirety. _____

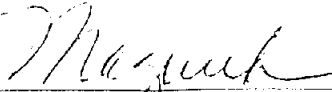
We recommend as follows:

THAT SENATE BILL 74, reference copy salmon, BE AMENDED AS FOLLOWS:

1. Page 6, line 12.
Following: "(2) (F)"
Insert: ", (2) (h), or (2) (i) "
2. Page 6, line 15.
Following: "(2) (F)"
Insert: ", (2) (h), or (2) (i) "
3. Page 11, line 3.
Following: "(2) (K)"
Insert: ", (2) (m), or (2) (n) "
4. Page 11, line 5.
Following: "(2) (K)"
Insert: ", (2) (m), or (2) (n) "

And that this Conference Committee report be adopted.

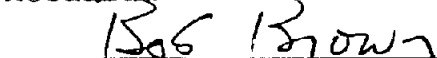
FOR THE SENATE



Mazurek, Chair



McCallum



Brown

ADOPT REJECT

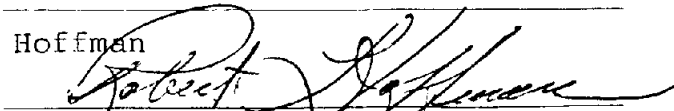
FOR THE HOUSE



Ellison, Chair



Koehnke



Hoffman

1 SENATE BILL NO. 74

2 INTRODUCED BY MAZUREK, MCCALLUM, CRIPPEN, ECK, SCHYE,
3 KITSELMAN, MANNING, ASAY, SWIFT, HAGER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM TAXATION
6 UP TO \$3,600 OF PUBLIC RETIREMENT BENEFITS PAID BY ANOTHER
7 STATE AND TO INCREASE THE EXEMPTION FOR PRIVATE AND
8 CORPORATE RETIREMENT BENEFITS FROM \$360 TO \$3,600; AMENDING
9 SECTIONS 15-30-111 AND 15-30-136, MCA; AND PROVIDING AN
10 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE 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; and

25 (c) that portion of a shareholder's income under

1 subchapter S. of Chapter 1 of the Internal Revenue Code of
2 1954 that has been reduced by any federal taxes paid by the
3 subchapter S. corporation on the income.

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

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

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

16 (c) all benefits, NOT IN EXCESS OF \$3,600, received:
17 (I) under the Federal Employees' Retirement Act; or
18 (II) UNDER the public employee retirement laws of a
19 state other than Montana not-in-excess-of-\$3,600; OR

20 ~~(d)--all--benefits,--not--in--excess--of \$360~~ \$3,600
21 received (III) as an annuity, pension, or endowment under
22 any private or corporate retirement plan or system;

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

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

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

7 ~~h~~(G) all Montana income tax refunds or credits
8 thereof;

9 ~~i~~(H) all benefits paid under 19-11-602, 19-11-604,
10 and 19-11-605 to retired and disabled firefighters, their
11 surviving spouses and orphans;

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

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

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

22 ~~m~~(L) all benefits received under the workers'
23 compensation laws; and

24 ~~n~~(M) all health insurance premiums paid by an
25 employer for an employee if attributed as income to the

1 employee under federal law.

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

16 (4) A shareholder of a DISC that is exempt from the
17 corporation license tax under 15-31-102(1)(1) shall include
18 in his adjusted gross income the earnings and profits of the
19 DISC in the same manner as provided by federal law (section
20 995, Internal Revenue Code) for all periods for which the
21 DISC election is effective.

22 (5) A taxpayer who, in determining federal adjusted
23 gross income, has reduced his business deductions by an
24 amount for wages and salaries for which a federal tax credit
25 was elected under section 44B of the Internal Revenue Code

1 of 1954 or as that section may be labeled or amended is
 2 allowed to deduct the amount of such wages and salaries paid
 3 regardless of the credit taken. The deduction must be made
 4 in the year the wages and salaries were used to compute the
 5 credit. In the case of a partnership or small business
 6 corporation, the deduction must be made to determine the
 7 amount of income or loss of the partnership or small
 8 business corporation.

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

17 (7) A taxpayer receiving retirement disability
 18 benefits who has not attained age 65 by the end of the
 19 taxable year and who has retired as permanently and totally
 20 disabled may exclude from adjusted gross income up to \$100
 21 per week received as wages or payments in lieu of wages for
 22 a period during which the employee is absent from work due
 23 to the disability. If the adjusted gross income before this
 24 exclusion and before application of the two-earner married
 25 couple deduction exceeds \$15,000, the excess reduces the

1 exclusion by an equal amount. This limitation affects the
 2 amount of exclusion, but not the taxpayer's eligibility for
 3 the exclusion. If eligible, married individuals shall apply
 4 the exclusion separately, but the limitation for income
 5 exceeding \$15,000 is determined with respect to the spouses
 6 on their combined adjusted gross income. For the purpose of
 7 this subsection, permanently and totally disabled means
 8 unable to engage in any substantial gainful activity by
 9 reason of any medically determined physical or mental
 10 impairment lasting or expected to last at least 12 months.

11 (8) A PERSON RECEIVING BENEFITS DESCRIBED IN
 12 SUBSECTIONS (2)(D) THROUGH (2)(F), (2)(H), OR (2)(I) MAY NOT
 13 EXCLUDE BENEFITS DESCRIBED IN SUBSECTION (2)(C) FROM
 14 ADJUSTED GROSS INCOME UNLESS THE BENEFITS RECEIVED UNDER
 15 SUBSECTIONS (2)(D) THROUGH (2)(F), (2)(H), OR (2)(I) ARE
 16 LESS THAN \$3,600, IN WHICH CASE THE PERSON MAY COMBINE
 17 BENEFITS TO EXCLUDE UP TO A TOTAL OF \$3,600 FROM ADJUSTED
 18 GROSS INCOME. (Subsection (2)(l) (now (2)(k)) terminates on
 19 occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

20 Section 2. Section 15-30-136, MCA, is amended to read:
 21 "15-30-136. Computation of income of estates or trusts
 22 -- exemption. (1) Except as otherwise provided in this
 23 chapter, "gross income" of estates or trusts means all
 24 income from whatever source derived in the taxable year,
 25 including but not limited to the following items:

1 (a) dividends;

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

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

9 (ii) a school district; or

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

12 (c) income from partnerships and other fiduciaries;

13 (d) gross rents and royalties;

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

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

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

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

24 (a) interest expenses deductible for federal tax
25 purposes according to section 163 of the Internal Revenue

1 Code of 1954, as amended;

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

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

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

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

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

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

1 (h) all benefits, NOT IN EXCESS OF \$3,600, received;

2 (I) as federal employees' retirement; or

3 (II) AS retirement as-a-public-employee-of FROM PUBLIC

4 EMPLOYMENT IN a state other than Montana not-in-excess-of

5 \$3,600; OR

6 (III) AS AN ANNUITY, PENSION, OR ENDOWMENT UNDER

7 PRIVATE OR CORPORATE RETIREMENT PLANS OR SYSTEMS;

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

9 retirement system that are specified as exempt from taxation

10 by 19-4-706;

11 (j) all benefits paid under the Montana Public

12 Employees' Retirement System Act that are specified as

13 exempt from taxation by 19-3-105;

14 (k) all benefits paid under the Montana highway

15 patrolmen's retirement system that are specified as exempt

16 from taxation by 19-6-705;

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

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

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

20 spouses or children;

21 (n) all benefits paid under the municipal police

22 officers' retirement system that are specified as exempt

23 from taxation by 19-9-1005;

24 ~~to;--all-benefits-not-in-excess-of \$360 \$3,600 received~~

25 ~~as--an--annuity,--pension,--or--endowment--under--private-or~~

1 ~~corporate-retirement-plans-or-systems.~~

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

3 respect to which the election provided for under subchapter

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

5 effect but with respect to which the election provided for

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

7 include any part of the corporation's undistributed taxable

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

9 profits, or losses required to be included in the

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

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

12 income shall include actual distribution from the

13 corporation to the extent it would be treated as taxable

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

15 (4) The following additional deductions shall be

16 allowed in deriving taxable income of estates and trusts:

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

18 currently required to be distributed to beneficiaries for

19 such year;

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

21 required to be distributed for the taxable year;

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

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

24 for the taxable year.

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

1 that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

2 (6) A TRUST OR ESTATE EXCLUDING BENEFITS UNDER
3 SUBSECTIONS (2)(I) THROUGH (2)(K), (2)(M), OR (2)(N) MAY NOT
4 EXCLUDE BENEFITS DESCRIBED IN SUBSECTION (2)(H) FROM NET
5 INCOME UNLESS THE BENEFITS RECEIVED UNDER SUBSECTIONS (2)(I)
6 THROUGH (2)(K), (2)(M), OR (2)(N) ARE LESS THAN \$3,600, IN
7 WHICH CASE THE TRUST OR ESTATE MAY COMBINE BENEFITS TO
8 EXCLUDE UP TO A TOTAL OF \$3,600 FROM NET INCOME."

9 NEW SECTION. Section 3. Extension of authority. A.,/
10 existing authority of the department of revenue to make
11 rules on the subject of the provisions of this act is
12 extended to the provisions of this act.

13 NEW SECTION. Section 4. Applicability. This act
14 applies to taxable years beginning after December 31, 1986.

15 NEW SECTION. Section 5. Effective date. This act is
16 effective on passage and approval.

-End-