

SB 332 INTRODUCED BY HAGER  
EXCLUDE SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT  
BENEFITS FROM STATE INCOME TAXATION

- 2/12 INTRODUCED
- 2/12 REFERRED TO TAXATION
- 2/12 FISCAL NOTE REQUESTED
- 2/17 FISCAL NOTE RECEIVED
- 2/23 HEARING
- DIED IN COMMITTEE

1 Senate BILL NO. 332  
2 INTRODUCED BY Hoyer

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE SOCIAL  
5 SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS FROM  
6 ADJUSTED GROSS INCOME IN COMPUTING STATE INDIVIDUAL INCOME  
7 TAX LIABILITY; AMENDING SECTION 15-30-111, MCA; AND  
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
9 APPLICABILITY DATE."

10  
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 not in excess of \$3,600;

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

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

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

25 (g) all benefits paid under the highway patrol



1 retirement law which are specified as exempt from taxation  
2 by 19-6-705;

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

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

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

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

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

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

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

22 (o) all social security and tier 1 railroad retirement  
23 benefits described in section 86 of the Internal Revenue  
24 Code of 1954, as amended and applicable on January 1, 1984.

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

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

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

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

1 regardless of the credit taken. The deduction must be made  
 2 in the year the wages and salaries were used to compute the  
 3 credit. In the case of a partnership or small business  
 4 corporation, the deduction must be made to determine the  
 5 amount of income or loss of the partnership or small  
 6 business corporation.

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

15 {7}{6} A taxpayer receiving retirement disability  
 16 benefits who has not attained age 65 by the end of the  
 17 taxable year and who has retired as permanently and totally  
 18 disabled may exclude from adjusted gross income up to \$100  
 19 per week received as wages or payments in lieu of wages for  
 20 a period during which the employee is absent from work due  
 21 to the disability. If the adjusted gross income before this  
 22 exclusion and before application of the two-earner married  
 23 couple deduction exceeds \$15,000, the excess reduces the  
 24 exclusion by an equal amount. This limitation affects the  
 25 amount of exclusion, but not the taxpayer's eligibility for

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

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

15 NEW SECTION. Section 3. Effective date --  
 16 applicability. (1) This act is effective on passage and  
 17 approval.

18 (2) This act applies retroactively, within the meaning  
 19 of 1-2-109, to taxable years beginning after December 31,  
 20 1986.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB332, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to exclude social security and tier 1 railroad retirement benefits from adjusted gross income in computing state individual income tax liability; providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates of individual income tax revenues and inflation provide the basis of comparison.
2. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89.
3. In tax year 1985, 14,518 individual income tax returns reported taxable social security and railroad retirement benefits for \$36,414,000. The average marginal tax rate of these returns was 6.51 percent.
4. \$38,086,000 and \$39,532,000 in taxable social security will be reported in tax years 1987 and 1988, respectively (1985 inflated for estimated inflation due to COLA's).

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	\$205,609,000	(\$2,479,000)	\$229,991,000	\$227,417,000	(\$2,574,000)
<u>Fund Information:</u>						
General Fund	\$133,176,000	\$131,589,760	(\$1,586,240)	\$147,194,000	\$145,546,880	(\$1,647,120)
Foundation Program	\$ 52,022,000	\$ 51,402,250	(\$ 619,750)	\$ 57,498,000	\$ 56,854,250	(\$ 643,750)
Debt Service Fund	\$ 22,890,000	\$ 22,616,990	(\$ 273,010)	\$ 25,299,000	\$ 25,015,870	(\$ 283,130)

David L. Hunter DATE 2/16/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Tom Hager DATE Feb 17, 1987  
 TOM HAGER, PRIMARY SPONSOR

Fiscal Note for SB332, as introduced.

**SB 332**