

SB 342 INTRODUCED BY MEYER, DAILY, PAVLOVICH, ET AL.  
EXEMPT ARMED FORCES PENSION BENEFITS FROM ADJUSTED  
GROSS INCOME

2/14 INTRODUCED  
2/14 REFERRED TO TAXATION  
2/14 FISCAL NOTE REQUESTED  
2/21 FISCAL NOTE RECEIVED  
2/23 HEARING  
3/09 ADVERSE COMMITTEE REPORT ADOPTED 43 4

1 *Senate* BILL NO. *342*  
 2 INTRODUCED BY *Meyer, Gandy, Roberts,*  
 3 *Miller, Phillips, Staley, Richard, Manning*  
 4 *Walker* A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING THE TOTAL  
 5 BENEFITS RECEIVED UNDER AN ARMED FORCES PENSION FROM THE  
 6 CALCULATION OF ADJUSTED GROSS INCOME; AMENDING SECTION  
 7 15-30-111, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY  
 8 DATE AND AN IMMEDIATE EFFECTIVE DATE."  
 9

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

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

12 "15-30-111. Adjusted gross income. (1) Adjusted gross  
 13 income shall be the taxpayer's federal income tax adjusted  
 14 gross income as defined in section 62 of the Internal  
 15 Revenue Code of 1954 or as that section may be labeled or  
 16 amended and in addition shall include the following:

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

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

23 (c) that portion of a shareholder's income under  
 24 subchapter S. of Chapter 1 of the Internal Revenue Code of  
 25 1954 that has been reduced by any federal taxes paid by the

1 subchapter S. corporation on the income.

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

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

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

14 (c) all benefits received under an armed forces  
 15 pension;

16 (d) benefits received under the Federal Employees'  
 17 Retirement Act, other than armed forces benefits referred to  
 18 in subsection (c), not in excess of \$3,600;

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

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

25 (g) all benefits paid under The Public Employees'



1 Retirement System Act which are specified as exempt from  
2 taxation by 19-3-105;

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

6 {h}(i) all Montana income tax refunds or credits  
7 thereof;

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

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

14 {k}(l) gain required to be recognized by a liquidating  
15 corporation under 15-31-113(1)(a)(ii);

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

21 {m}(n) all benefits received under the workers'  
22 compensation laws; and

23 {n}(o) all health insurance premiums paid by an  
24 employer for an employee if attributed as income to the  
25 employee under federal law.

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

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

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

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

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

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

1 amount of exclusion, but not the taxpayer's eligibility for  
 2 the exclusion. If eligible, married individuals shall apply  
 3 the exclusion separately, but the limitation for income  
 4 exceeding \$15,000 is determined with respect to the spouses  
 5 on their combined adjusted gross income. For the purpose of  
 6 this subsection, permanently and totally disabled means  
 7 unable to engage in any substantial gainful activity by  
 8 reason of any medically determined physical or mental  
 9 impairment lasting or expected to last at least 12 months.  
 10 (Subsection (2)(1) terminates on occurrence of  
 11 contingency--sec. 3, Ch. 634, L. 1983.)"

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

16 NEW SECTION. Section 3. Effective date --  
 17 applicability. This act is effective on passage and approval  
 18 and applies retroactively, within the meaning of 1-2-109, to  
 19 taxable years beginning January 1, 1987.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB342, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting the total benefits received under an armed forces pension from the calculation of adjusted gross income; providing a retroactive applicability date and an immediate effective date.

ASSUMPTIONS:

1. Individual income tax revenues under current law are \$208,088,000 in FY88, and \$229,991,000 in FY89 (REAC).
2. There are 4,713 military retirees drawing a total of \$49,784,000 in retirement benefits (Defense '86).
3. For each of the above retirees \$3,600 of benefits are currently excluded from taxable income.
4. The 1985 average effective income tax rate of 5.344 percent remains constant over the biennium.

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>Revenue Impact:</u>						
Individual Income Tax	\$208,088,000	\$206,334,000	(\$1,754,000)	\$229,991,000	\$228,237,000	(\$1,754,000)
<u>Fund Information:</u>						
General Fund	\$133,176,320	\$132,053,760	(\$1,122,560)	\$147,194,240	\$146,071,680	(\$1,122,560)
Foundation Program	52,022,000	51,583,500	( 438,500)	57,497,750	57,059,250	( 438,500)
Debt Service Fund	22,889,680	22,696,740	( 192,940)	25,299,010	25,106,070	( 192,940)
TOTAL	\$208,088,000	\$206,334,000	(\$1,754,000)	\$229,991,000	\$228,237,000	(\$1,754,000)

*David L. Hunter* DATE 2/20/87

DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

*Darryl Meyer* DATE 2/21/87

DARRYL MEYER, PRIMARY SPONSOR

Fiscal Note for SB342, as introduced.

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