

1 *Senate* BILL NO. *380*
2 INTRODUCED BY *Hager*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE SOCIAL
5 SECURITY BENEFITS AND TIER 1 RAILROAD RETIREMENT BENEFITS
6 FROM ADJUSTED GROSS INCOME IN COMPUTING STATE INDIVIDUAL
7 INCOME 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, not in excess of \$3,600, received:

16 (i) under the Federal Employees' Retirement Act;

17 (ii) under the public employee retirement laws of a
18 state other than Montana; or

19 (iii) as an annuity, pension, or endowment under any
20 private or corporate retirement plan or system;

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

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

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

(g) all Montana income tax refunds or credits thereof;

(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;

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

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

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

(l) all benefits received under the workers' compensation laws;

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

(n) all benefits paid under an optional retirement program that are specified as exempt from taxation by

19-21-212; and

(o) all social security benefits and tier 1 railroad retirement benefits described in section 86 of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1989.

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

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

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

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

21 ~~{7}{6}~~ A taxpayer receiving retirement disability
 22 benefits who has not attained age 65 by the end of the
 23 taxable year and who has retired as permanently and totally
 24 disabled may exclude from adjusted gross income up to \$100
 25 per week received as wages or payments in lieu of wages for

1 a period during which the employee is absent from work due
 2 to the disability. If the adjusted gross income before this
 3 exclusion and before application of the two-earner married
 4 couple deduction exceeds \$15,000, the excess reduces the
 5 exclusion by an equal amount. This limitation affects the
 6 amount of exclusion, but not the taxpayer's eligibility for
 7 the exclusion. If eligible, married individuals shall apply
 8 the exclusion separately, but the limitation for income
 9 exceeding \$15,000 is determined with respect to the spouses
 10 on their combined adjusted gross income. For the purpose of
 11 this subsection, permanently and totally disabled means
 12 unable to engage in any substantial gainful activity by
 13 reason of any medically determined physical or mental
 14 impairment lasting or expected to last at least 12 months.

15 ~~{8}{7}~~ A person receiving benefits described in
 16 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not
 17 exclude benefits described in subsection (2)(c) from
 18 adjusted gross income unless the benefits received under
 19 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are
 20 less than \$3,600, in which case the person may combine
 21 benefits to exclude up to a total of \$3,600 from adjusted
 22 gross income. (Subsection (2)(k) terminates on occurrence
 23 of contingency--sec. 3, Ch. 634, L. 1983.)"

24 NEW SECTION. **Section 2. Extension of authority.** Any
 25 existing authority to make rules on the subject of the

LC 1112/01

1 provisions of [this act] is extended to the provisions of
2 [this act].

3 NEW SECTION. **Section 3.** Effective date -- retroactive
4 applicability. [This act] is effective on passage and
5 approval and applies retroactively, within the meaning of
6 1-2-109, to taxable years beginning after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB380, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act to exclude Social Security benefits and Tier 1 Railroad Retirement benefits from adjusted gross income in computing state individual income tax liability; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections are estimated to be \$239,124,000 in FY90, and \$254,428,000 in FY91 (REAC).
2. Tier 1 Railroad Retirement benefits are not included in state adjusted gross income under current law.
3. Eliminating all taxable social security benefits reported on 1987 returns for federal purposes reduces individual income tax collections \$2.648 million. Of this amount, approximately 10% is attributable to Tier 1 Railroad Retirement benefits already being excluded. The net effect is a reduction in collections of \$2.380 million.
4. There is no impact on Department of Revenue administrative expenditures.

FISCAL IMPACT:

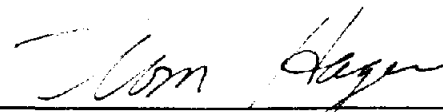
	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
<u>Revenue Impact:</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
Individual Income Tax	\$239,124,000	\$236,744,000	(\$2,380,000)	\$254,428,000	\$252,048,000	(\$2,380,000)
<u>Fund Information:</u>						
General Fund	\$139,170,168	\$137,785,008	(\$1,385,160)	\$148,077,096	\$146,691,936	(\$1,385,160)
Foundation Program	76,041,432	75,284,592	(756,840)	80,908,104	80,151,264	(756,840)
Sinking Fund	23,912,400	23,674,400	(238,000)	25,442,800	25,204,800	(238,000)
Total	\$239,124,000	\$236,744,000	(\$2,380,000)	\$254,428,000	\$252,048,000	(\$2,380,000)



DATE

2/15/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE

2-15-89

TOM HAGER, PRIMARY SPONSOR

Fiscal Note for SB380, as introduced

SB 380