

HOUSE BILL 5

Introduced by Swift

6/16 Introduced
6/19 Referred to Taxation
6/20 Hearing
6/21 Fiscal Note Received
6/22 Fiscal Note Printed
6/28 Committee Report--Bill Passed as Amended
6/29 2nd Reading Passed as Amended
6/29 3rd Reading Passed

Transmitted to Senate

6/30 Referred to Taxation
7/06 Hearing
7/07 Hearing
7/11 Committee Report--Bill Concurred as Amended
7/12 Rereferred to Taxation
7/13 Committee Report--Bill Concurred as Amended
7/14 2nd Reading Concurred as Amended
Motion Failed
7/14 2nd Reading Concurred as Amended
7/14 3rd Reading Concurred

Returned to House With Amendments

7/14 Motion to Concur with Senate Amendments on 2nd Reading Failed
Died in Process

1 HOUSE BILL NO. 5

2 INTRODUCED BY SWIFT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION
5 OF \$12,000 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE,
6 AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT
7 PLANS OR SYSTEMS; AMENDING SECTIONS 15-30-111, 15-30-136,
8 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805,
9 19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003, AND
10 19-21-212, MCA; PROVIDING A RETROACTIVE APPLICABILITY DATE;
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THIS ACT AND
12 FOR CHAPTER 532, LAWS OF 1989, AND SECTION 3, CHAPTER 617,
13 LAWS OF 1989."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

22 (a) interest received on obligations of another state
23 or territory or county, municipality, district, or other
24 political subdivision thereof;

25 (b) refunds received of federal income tax, to the

1 extent the deduction of such tax resulted in a reduction of
2 Montana income tax liability;

3 (c) that portion of a shareholder's income under
4 subchapter S. of Chapter 1 of the Internal Revenue Code of
5 1954, that has been reduced by any federal taxes paid by the
6 subchapter S. corporation on the income; and

7 (d) depreciation or amortization taken on a title
8 plant as defined in 33-25-105(15).

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

13 (a) all interest income from obligations of the United
14 States government, the state of Montana, county,
15 municipality, district, or other political subdivision
16 thereof;

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

21 (c) all benefits, not in excess of ~~\$3,600~~ \$12,000,
22 received:

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

24 (ii) under the public employee retirement laws of a
25 Montana or any other state other-than-Montana; or

1 (iii) as an annuity, pension, or endowment under any
 2 private or corporate retirement plan or system;
 3 ~~{d}--all-benefits-paid-under-the--teachers'-retirement~~
 4 ~~law-which-are-specified-as-exempt-from-taxation-by-19-4-706;~~
 5 ~~{e}--all--benefits--paid--under--The--Public-Employees'~~
 6 ~~Retirement-System-Act-which-are--specified--as--exempt--from~~
 7 ~~taxation-by-19-3-105;~~
 8 ~~{f}--all--benefits---paid--under--the--highway--patrol~~
 9 ~~retirement-law-which-are-specified-as-exempt--from--taxation~~
 10 ~~by-19-6-705;~~
 11 ~~{g}{d}~~ all Montana income tax refunds or credits
 12 thereof;
 13 ~~{h}--all-benefits-paid-under-19-11-602,19-11-604,--and~~
 14 ~~19-11-605---to--retired--and--disabled--firefighters,--their~~
 15 ~~surviving-spouses-and-orphans-or-specified--as--exempt--from~~
 16 ~~taxation-by-19-13-1003;~~
 17 ~~{i}--all-benefits--paid--under--the--municipal--police~~
 18 ~~officers'-retirement-system-that--are--specified--as--exempt~~
 19 ~~from-taxation-by-19-9-1005;~~
 20 ~~{j}{e}~~ gain required to be recognized by a liquidating
 21 corporation under 15-31-113(1)(a)(ii);
 22 ~~{k}{f}~~ all tips covered by section 3402(k) of the
 23 Internal Revenue Code of 1954, as amended and applicable on
 24 January 1, 1983, received by persons for services rendered
 25 by them to patrons of premises licensed to provide food,

1 beverage, or lodging;
 2 ~~{l}{g}~~ all benefits received under the workers'
 3 compensation laws;
 4 ~~{m}{h}~~ all health insurance premiums paid by an
 5 employer for an employee if attributed as income to the
 6 employee under federal law; and
 7 ~~{n}--all-benefits-paid-under--an--optional--retirement~~
 8 ~~program--that--are--specified--as--exempt--from--taxation-by~~
 9 ~~19-21-212;--and~~
 10 ~~{o}{i}~~ all money received because of a settlement
 11 agreement or judgment in a lawsuit brought against a
 12 manufacturer or distributor of "agent orange" for damages
 13 resulting from exposure to "agent orange".
 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 election under subchapter S.
 24 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 the 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) Married taxpayers filing a joint federal return
22 who must include part of their social security benefits or
23 part of their tier 1 railroad retirement benefits in federal
24 adjusted gross income may split the federal base used in
25 calculation of federal taxable social security benefits or

1 federal taxable tier 1 railroad retirement benefits when
2 they file separate Montana income tax returns. The federal
3 base must be split equally on the Montana return.

4 (7) A taxpayer receiving retirement disability
5 benefits who has not attained age 65 by the end of the
6 taxable year and who has retired as permanently and totally
7 disabled may exclude from adjusted gross income up to \$100
8 per week received as wages or payments in lieu of wages for
9 a period during which the employee is absent from work due
10 to the disability. If the adjusted gross income before this
11 exclusion and before application of the two-earner married
12 couple deduction exceeds \$15,000, the excess reduces the
13 exclusion by an equal amount. This limitation affects the
14 amount of exclusion, but not the taxpayer's eligibility for
15 the exclusion. If eligible, married individuals shall apply
16 the exclusion separately, but the limitation for income
17 exceeding \$15,000 is determined with respect to the spouses
18 on their combined adjusted gross income. For the purpose of
19 this subsection, permanently and totally disabled means
20 unable to engage in any substantial gainful activity by
21 reason of any medically determined physical or mental
22 impairment lasting or expected to last at least 12 months.

23 (8) A person receiving benefits described in
24 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not
25 exclude benefits described in subsection (2)(c) from

1 adjusted-gross-income-unless--the--benefits--received--under
 2 subsections--(2)(d)--through--(2)(f),--(2)(h),--or--(2)(i)--are
 3 less-than-\$3,600,--in--which--case--the--person--may--combine
 4 benefits--to--exclude--up-to-a-total-of-\$3,600--from-adjusted
 5 gross--income. (Subsection (2)(k) (2)(f) terminates on
 6 occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

7 **Section 2.** Section 15-30-136, MCA, is amended to read:

8 "15-30-136. Computation of income of estates or trusts
 9 -- exemption. (1) Except as otherwise provided in this
 10 chapter, "gross income" of estates or trusts means all
 11 income from whatever source derived in the taxable year,
 12 including but not limited to the following items:

13 (a) dividends;

14 (b) interest received or accrued, including interest
 15 received on obligations of another state or territory or a
 16 county, municipality, district, or other political
 17 subdivision thereof, but excluding interest income from
 18 obligations of:

19 (i) the United States government or the state of
 20 Montana;

21 (ii) a school district; or

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

24 (c) income from partnerships and other fiduciaries;

25 (d) gross rents and royalties;

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

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

6 (g) refunds recovered on federal income tax, to the
 7 extent the deduction of such tax resulted in a reduction of
 8 Montana income tax liability.

9 (2) In computing net income, there are allowed as
 10 deductions:

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

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

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

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

24 (e) administrative expenses claimed for federal income
 25 tax purposes, according to sections 212 and 642(g) of the

1 Internal Revenue Code of 1954, as amended, if such expenses
2 were not claimed as a deduction in the determination of
3 Montana inheritance tax;

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

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

13 (h) all benefits, not in excess of \$3,600 \$12,000,
14 received:

15 (i) as federal employees' retirement;

16 (ii) as retirement from public employment in a Montana
17 or any other state other than Montana; or

18 (iii) as an annuity, pension, or endowment under
19 private or corporate retirement plans or systems;

20 ~~{k}--all-benefits--paid--under--the--Montana--teachers'~~
21 ~~retirement-system-that-are-specified-as-exempt-from-taxation~~
22 ~~by-19-4-786;~~

23 ~~{j}--all---benefits---paid--under--the--Montana--Public~~
24 ~~Employees'-Retirement--System--Act--that--are--specified--as~~
25 ~~exempt-from-taxation-by-19-3-105;~~

1 ~~{k}--all-benefits-paid-under-the-Montana-highway-patrol~~
2 ~~officers'-retirement--system--that--are-specified-as-exempt~~
3 ~~from-taxation-by-19-6-785;~~

4 ~~{i}~~ (i) Montana income tax refunds or credits thereof;
5 ~~{m}--all--benefits-paid-under-19-11-682, 19-11-684, and~~
6 ~~19-11-685-to-retired-and-disabled-firemen-or-their-surviving~~
7 ~~spouses-or-children;~~

8 ~~{n}--all--benefits--paid--under--the--municipal--police~~
9 ~~officers'-retirement--system--that--are-specified-as-exempt~~
10 ~~from-taxation-by-19-9-1005.~~

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

24 (4) The following additional deductions shall be
25 allowed in deriving taxable income of estates and trusts:

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

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

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

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

11 ~~(6) --A--trust--or--estate--excluding--benefits--under~~
12 ~~subsections-(2)(i)-through-(2)(k),-(2)(m),-or-(2)(n)-may-not~~
13 ~~exclude--benefits--described--in--subsection-(2)(h)-from-net~~
14 ~~income-unless-the-benefits-received-under-subsections-(2)(i)~~
15 ~~through-(2)(k),-(2)(m),-or-(2)(n)-are-less-than--\$3,600,-in~~
16 ~~which--case--the--trust--or--estate--may-combine-benefits-to~~
17 ~~exclude-up-to-a-total-of-\$3,600-from-net-income."~~

18 **Section 3.** Section 19-3-105, MCA, is amended to read:

19 "19-3-105. Exemption from taxes and legal process. The
20 right of a person to a retirement allowance or any other
21 benefit under this chapter and the moneys money in the fund
22 created under this chapter is are not:

23 (1) subject to execution, garnishment, attachment, or
24 any other process;

25 (2) subject to state, county, or municipal taxes

1 except for:

2 (a) for the amount received in excess of \$12,000; or

3 (b) a refund paid under 19-3-703 of a member's
4 contributions picked up by an employer after June 30, 1985,
5 as provided in 19-3-701; or

6 (3) assignable except as in this chapter specifically
7 provided."

8 **Section 4.** Section 19-4-706, MCA, is amended to read:

9 "19-4-706. Exemption from taxation and legal process.

10 The pensions, annuities, or any other benefits accrued or
11 accruing to any person under the provisions of the
12 retirement system and the accumulated contributions and cash
13 and securities in the various funds of the retirement system
14 are:

15 (1) exempted from any state, county, or municipal tax
16 of the state of Montana except for:

17 (a) the amount received in excess of \$12,000; or

18 (b) a withdrawal paid under 19-4-603 of a member's
19 contributions picked up by an employer after June 30, 1985,
20 as provided in 19-4-602;

21 (2) not subject to execution, garnishment, attachment
22 by trustee process or otherwise, in law or equity, or any
23 other process; and

24 (3) unassignable except as specifically provided in
25 this chapter."

1 **Section 5.** Section 19-5-704, MCA, is amended to read:

2 "19-5-704. **Exemption from taxes and legal process.** (1)
3 ~~Any-money~~ Money received or to be paid as a member's
4 annuity, state annuity, or return of deductions or the right
5 of any of these ~~shall--be~~ is exempt from ~~any-state-or~~
6 ~~municipal-tax-and-from~~ levy, sale, garnishment, attachment,
7 or any other process ~~whatsoever~~ and ~~shall-be~~ is unassignable
8 except as specifically provided in 19-5-705.

9 (2) The first \$12,000 received under this chapter is
10 exempt from state, county, or municipal taxation."

11 **Section 6.** Section 19-6-705, MCA, is amended to read:

12 "19-6-705. **Exemption from taxes and legal process.** Any
13 money received or to be paid as a member's annuity, state
14 annuity, or return of deductions or the right of any of
15 these is:

16 (1) exempt from any state, county, or municipal tax
17 except for:

18 (a) the amount received in excess of \$12,000; or

19 (b) a refund paid under 19-6-403 of a member's
20 contributions picked up by an employer after June 30, 1985,
21 as provided in 19-6-402;

22 (2) exempt from levy, sale, garnishment, attachment,
23 or any other process; and

24 (3) unassignable except as specifically provided in
25 19-6-706."

1 **Section 7.** Section 19-7-705, MCA, is amended to read:

2 "19-7-705. **Exemption from taxes and legal process.** Any
3 money received or to be paid as a member's annuity, state
4 annuity, or return of deductions or the right of any of
5 these is:

6 (1) exempt from any state, county, or municipal tax
7 except for:

8 (a) the amount received in excess of \$12,000; or

9 (b) a refund paid under 19-7-304(1) of a member's
10 contributions picked up by an employer after June 30, 1985,
11 as provided in 19-7-403;

12 (2) exempt from levy, sale, garnishment, attachment,
13 or any other process; and

14 (3) unassignable except as specifically provided in
15 19-7-706."

16 **Section 8.** Section 19-8-805, MCA, is amended to read:

17 "19-8-805. **Exemption from taxes and legal process.** Any
18 money received or to be paid as a member's annuity, state
19 annuity, or return of deductions or the right of any of
20 these is:

21 (1) exempt from any state, county, or municipal tax
22 except for:

23 (a) the amount received in excess of \$12,000; or

24 (b) a refund paid under 19-8-503 of the member's
25 contributions picked up by an employer after June 30, 1985,

1 as provided in 19-8-502;

2 (2) exempt from levy, sale, garnishment, attachment,
3 or any other process; and

4 (3) unassignable except as specifically provided in
5 19-8-806."

6 **Section 9.** Section 19-9-1005, MCA, is amended to read:

7 "19-9-1005. Exemption from taxes. Any money paid in
8 accordance with the provisions of this chapter is exempt
9 from any state, county, or municipal tax except for:

10 (1) the amount received in excess of \$12,000; or

11 (2) a refund paid under 19-9-304 of a member's
12 contributions picked up by an employer after June 30, 1985,
13 as provided in 19-9-601."

14 **Section 10.** Section 19-10-504, MCA, is amended to
15 read:

16 "19-10-504. Protection of benefits from legal process
17 and taxation. (1) The benefits provided for in this part are
18 not subject to execution, garnishment, attachment, or the
19 operation of bankruptcy, insolvency, or other process of law
20 and are unassignable except as specifically provided in
21 19-10-505.

22 (2) The first \$12,000 of benefits received under this
23 part are exempt from state, county, and municipal taxation."

24 **Section 11.** Section 19-11-612, MCA, is amended to
25 read:

1 "19-11-612. Protection of benefits from legal process
2 and taxation -- nonassignability. (1) Any payments made or
3 to be made under this chapter are not subject to judgments,
4 garnishment, execution, or other legal process. A person
5 entitled to a pension may not assign the right, and the
6 association and trustees may not recognize any assignment or
7 pay over any sum so assigned.

8 (2) The first \$12,000 of benefits received under this
9 chapter are exempt from state, county, and municipal
10 taxation."

11 **Section 12.** Section 19-12-407, MCA, is amended to
12 read:

13 "19-12-407. Payment of pension benefits -- exemption
14 from taxation. (1) All payments under the volunteer
15 firefighters' pension plan must be approved by the board and
16 paid by warrants drawn upon the pension trust fund, payable
17 to the order of the individual qualified volunteer
18 firefighter or the beneficiary as provided in 19-12-405(1).

19 (2) The first \$12,000 of benefits received under this
20 chapter are exempt from state, county, and municipal
21 taxation."

22 **Section 13.** Section 19-13-1003, MCA, is amended to
23 read:

24 "19-13-1003. Exemption from taxes. Any money paid in
25 accordance with the provisions of this chapter is exempt

1 from any state, county, or municipal tax except for:
 2 (1) the amount received in excess of \$12,000; or
 3 (2) refunds paid under 19-13-602 of the member's
 4 contributions picked up by an employer after June 30, 1987,
 5 as provided in 19-13-601."

6 **Section 14.** Section 19-21-212, MCA, is amended to
 7 read:

8 "19-21-212. Exemption from taxation, legal process,
 9 and assessments. All contracts, benefits, and contributions
 10 under the optional retirement program and the earnings
 11 thereon are:

12 (1) except for the amount received in excess of
 13 \$12,000, exempt from any state, county, or municipal tax;

14 (2) not subject to execution, garnishment, attachment,
 15 or other process;

16 (3) not covered or assessable by an insurance guaranty
 17 association; and

18 (4) unassignable except as specifically provided in
 19 the contracts."

20 **NEW SECTION. Section 15.** Effective date --
 21 retroactive applicability date. (1) (a) [This act] is
 22 effective on passage and approval.

23 (b) Chapter 532, Laws of 1989, and section 3, Chapter
 24 617, Laws of 1989, are effective on passage and approval of
 25 [this act].

1 (2) [This act] applies retroactively, within the
 2 meaning of 1-2-109, to taxable years beginning after
 3 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 HB5, as introducedDESCRIPTION OF PROPOSED LEGISLATION:

An act to provide an exemption of \$12,000 from taxation of benefits from federal, state, and private retirement, annuity, pension, and endowment plans or systems; providing a retroactive applicability date; and providing an immediate effective date for this act and for Chapter 532, Laws of 1989, and Section 3, Chapter 617, Laws of 1989.

ASSUMPTIONS:

1. Individual income tax collections are projected to be \$256,617,000 in FY90 and \$274,732,000 in FY91 (HJR13).
2. Setting an exclusion cap of \$12,000 on pension and retirement benefits received by federal, state and private employees is estimated to decrease revenues \$2.82 million annually (Department of Revenue).
3. This proposal applies to taxable years beginning after December 31, 1988.
4. There is no impact on Department of Revenue administrative expenditures.
5. The Teachers' Retirement System will require additional funding for modification of their computer system to withhold state income taxes. The costs are \$10,000 in FY90 and \$2,000 in FY91.
6. The Public Employees' Retirement Division will require additional administrative expenses. The costs are \$5,000 in FY90 and \$2,000 in FY91.

FISCAL IMPACT:Revenue Impact:

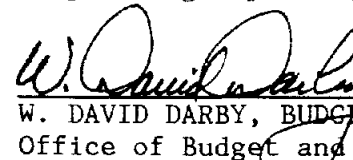
	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Ind. Income Tax	\$256,617,000	\$253,797,000	(\$2,820,000)	\$274,732,000	\$271,912,000	(\$2,820,000)

Fund Information:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
General Fund	\$149,351,094	\$147,709,854	(\$1,641,240)	\$159,894,024	\$158,252,784	(\$1,641,240)
Foundation Program	81,604,206	80,707,446	(896,760)	87,364,776	86,468,016	(896,760)
Debt Service	25,661,700	25,379,700	(282,000)	27,473,200	27,191,200	(282,000)
Total	\$256,617,000	\$253,797,000	(\$2,820,000)	\$274,732,000	\$271,912,000	(\$2,820,000)

Additional Expenditure Impact

Teachers' Retirement System (Pension Fund Interest Earnings)							
Operating Expenses	\$	-0-	\$	10,000	\$	10,000	
					\$	-0-	\$
						2,000	\$
							2,000
Public Employees' Retirement Division (Pension Fund Interest Earnings)							
Operating Expenses	\$	-0-	\$	5,000	\$	5,000	
					\$	-0-	\$
						2,000	\$
							2,000

 DATE 6/21/89
W. DAVID DARBY, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 6/21/89
BERNIE SWIFT, PRIMARY SPONSOR

Fiscal Note for HB5, as introduced**HB5**

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 5
2 INTRODUCED BY SWIFT
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION
5 OF \$12,000 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE,
6 AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT
7 PLANS OR SYSTEMS; TO PROVIDE FOR A STUDY OF THE TAXATION OF
8 PENSION AND RETIREMENT SYSTEMS AND TO APPROPRIATE FUNDS FOR
9 THE STUDY; AMENDING SECTIONS 15-30-111, 15-30-136, 19-3-105,
10 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005,
11 19-10-504, 19-11-612, 19-12-407, 19-13-1003, AND 19-21-212,
12 MCA; PROVIDING A RETROACTIVE APPLICABILITY DATE; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THIS ACT AND FOR
14 CHAPTER 532, LAWS OF 1989, AND SECTION 3, CHAPTER 617, LAWS
15 OF 1989; AND PROVIDING TERMINATION DATES."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

19 "15-30-111. Adjusted gross income. (1) Adjusted gross
20 income shall be the taxpayer's federal income tax adjusted
21 gross income as defined in section 62 of the Internal
22 Revenue Code of 1954 or as that section may be labeled or
23 amended and in addition shall include the following:

24 (a) interest received on obligations of another state
25 or territory or county, municipality, district, or other

1 political subdivision thereof;

2 (b) refunds received of federal income tax, to the
3 extent the deduction of such tax resulted in a reduction of
4 Montana income tax liability;

5 (c) that portion of a shareholder's income under
6 subchapter S. of Chapter 1 of the Internal Revenue Code of
7 1954, that has been reduced by any federal taxes paid by the
8 subchapter S. corporation on the income; and

9 (d) depreciation or amortization taken on a title
10 plant as defined in 33-25-105(15).

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

15 (a) all interest income from obligations of the United
16 States government, the state of Montana, county,
17 municipality, district, or other political subdivision
18 thereof;

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

23 (c) all benefits, not in excess of ~~\$3,600~~ \$12,000,
24 received:

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

1 (ii) under the public employee retirement laws of a
 2 Montana or any other state other than Montana; or
 3 (iii) as an annuity, pension, or endowment under any
 4 private or corporate retirement plan or system;
 5 ~~(d) all benefits paid under the teachers' retirement~~
 6 ~~law which are specified as exempt from taxation by 19-4-706;~~
 7 ~~(e) all benefits paid under the Public Employees'~~
 8 ~~Retirement System Act which are specified as exempt from~~
 9 ~~taxation by 19-3-105;~~
 10 ~~(f) all benefits paid under the highway patrol~~
 11 ~~retirement law which are specified as exempt from taxation~~
 12 ~~by 19-6-705;~~
 13 ~~(g)(d) all Montana income tax refunds or credits~~
 14 ~~thereof;~~
 15 ~~(h) all benefits paid under 19-11-602, 19-11-604, and~~
 16 ~~19-11-605 to retired and disabled firefighters, their~~
 17 ~~surviving spouses and orphans or specified as exempt from~~
 18 ~~taxation by 19-13-1003;~~
 19 ~~(i) all benefits paid under the municipal police~~
 20 ~~officers' retirement system that are specified as exempt~~
 21 ~~from taxation by 19-9-1005;~~
 22 ~~(j)(e) gain required to be recognized by a liquidating~~
 23 ~~corporation under 15-31-113(1)(a)(ii);~~
 24 ~~(k)(f) all tips covered by section 3402(k) of the~~
 25 ~~Internal Revenue Code of 1954, as amended and applicable on~~

1 January 1, 1983, received by persons for services rendered
 2 by them to patrons of premises licensed to provide food,
 3 beverage, or lodging;
 4 ~~(i)(g) all benefits received under the workers'~~
 5 ~~compensation laws;~~
 6 ~~(m)(h) all health insurance premiums paid by an~~
 7 ~~employer for an employee if attributed as income to the~~
 8 ~~employee under federal law; and~~
 9 ~~(n) all benefits paid under an optional retirement~~
 10 ~~program that are specified as exempt from taxation by~~
 11 ~~19-21-212; and~~
 12 ~~(o)(i) all money received because of a settlement~~
 13 ~~agreement or judgment in a lawsuit brought against a~~
 14 ~~manufacturer or distributor of "agent orange" for damages~~
 15 ~~resulting from exposure to "agent orange".~~
 16 (3) In the case of a shareholder of a corporation with
 17 respect to which the election provided for under subchapter
 18 S. of the Internal Revenue Code of 1954, as amended, is in
 19 effect but with respect to which the election provided for
 20 under 15-31-202, as amended, is not in effect, adjusted
 21 gross income does not include any part of the corporation's
 22 undistributed taxable income, net operating loss, capital
 23 gains or other gains, profits, or losses required to be
 24 included in the shareholder's federal income tax adjusted
 25 gross income by reason of the election under subchapter S.

1 However, the shareholder's adjusted gross income shall
 2 include actual distributions from the corporation to the
 3 extent they would be treated as taxable dividends if the
 4 subchapter S. election were not in effect.

5 (4) A shareholder of a DISC that is exempt from the
 6 corporation license tax under 15-31-102(1)(1) shall include
 7 in his adjusted gross income the earnings and profits of the
 8 DISC in the same manner as provided by federal law (section
 9 995, Internal Revenue Code) for all periods for which the
 10 DISC election is effective.

11 (5) A taxpayer who, in determining federal adjusted
 12 gross income, has reduced his business deductions by an
 13 amount for wages and salaries for which a federal tax credit
 14 was elected under section 44B of the Internal Revenue Code
 15 of 1954 or as that section may be labeled or amended is
 16 allowed to deduct the amount of the wages and salaries paid
 17 regardless of the credit taken. The deduction must be made
 18 in the year the wages and salaries were used to compute the
 19 credit. In the case of a partnership or small business
 20 corporation, the deduction must be made to determine the
 21 amount of income or loss of the partnership or small
 22 business corporation.

23 (6) Married taxpayers filing a joint federal return
 24 who must include part of their social security benefits or
 25 part of their tier 1 railroad retirement benefits in federal

1 adjusted gross income may split the federal base used in
 2 calculation of federal taxable social security benefits or
 3 federal taxable tier 1 railroad retirement benefits when
 4 they file separate Montana income tax returns. The federal
 5 base must be split equally on the Montana return.

6 (7) A taxpayer receiving retirement disability
 7 benefits who has not attained age 65 by the end of the
 8 taxable year and who has retired as permanently and totally
 9 disabled may exclude from adjusted gross income up to \$100
 10 per week received as wages or payments in lieu of wages for
 11 a period during which the employee is absent from work due
 12 to the disability. If the adjusted gross income before this
 13 exclusion and before application of the two-earner married
 14 couple deduction exceeds \$15,000, the excess reduces the
 15 exclusion by an equal amount. This limitation affects the
 16 amount of exclusion, but not the taxpayer's eligibility for
 17 the exclusion. If eligible, married individuals shall apply
 18 the exclusion separately, but the limitation for income
 19 exceeding \$15,000 is determined with respect to the spouses
 20 on their combined adjusted gross income. For the purpose of
 21 this subsection, permanently and totally disabled means
 22 unable to engage in any substantial gainful activity by
 23 reason of any medically determined physical or mental
 24 impairment lasting or expected to last at least 12 months.

25 (8)--A---person---receiving---benefits---described---in

1 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not
 2 exclude benefits described in subsection (2)(c) from
 3 adjusted gross income unless the benefits received under
 4 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are
 5 less than \$3,600, in which case the person may combine
 6 benefits to exclude up to a total of \$3,600 from adjusted
 7 gross income. (Subsection (2)(k) (2)(f) terminates on
 8 occurrence of 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, not in excess of ~~\$37,600~~ \$12,000,
 16 received:

17 (i) as federal employees' retirement;

18 (ii) as retirement from public employment in a Montana
 19 or any other state other than Montana; or

20 (iii) as an annuity, pension, or endowment under
 21 private or corporate retirement plans or systems;

22 ~~{i}--all-benefits--paid--under--the--Montana--teachers--~~
 23 ~~retirement-system-that-are-specified-as-exempt-from-taxation~~
 24 ~~by-19-4-706;~~

25 ~~{j}--all--benefits--paid--under--the--Montana--Public~~

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

3 ~~{k}--all-benefits-paid-under-the-Montana-highway-patrol~~
 4 ~~officers--retirement--system--that--are-specified-as-exempt~~
 5 ~~from-taxation-by-19-6-705;~~

6 ~~{l}{i} Montana income tax refunds or credits thereof,~~
 7 ~~{m}--all--benefits-paid-under-19-11-602, 19-11-604, and~~
 8 ~~19-11-605-to-retired-and-disabled-firemen-or-their-surviving~~
 9 ~~spouses-or-children;~~

10 ~~{n}--all--benefits--paid--under--the--municipal--police~~
 11 ~~officers--retirement--system--that--are-specified-as-exempt~~
 12 ~~from-taxation-by-19-9-1005.~~

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

1 (4) The following additional deductions shall be
2 allowed in deriving taxable income of estates and trusts:

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

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

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

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

13 ~~{6}--A--trust--or--estate--excluding---benefits---under
14 subsections-(2)(i)--through-(2)(k),-(2)(m),-or-(2)(n)--may-not
15 exclude--benefits--described--in--subsection-(2)(h)--from-net
16 income-unless-the-benefits-received-under-subsections-(2)(i)
17 through-(2)(k),-(2)(m),-or-(2)(n)-are-less-than--\$3,600,--in
18 which--case--the--trust--or--estate--may-combine-benefits-to
19 exclude-up-to-a-total-of-\$3,600-from-net-income--"~~

20 **Section 3.** Section 19-3-105, MCA, is amended to read:

21 "19-3-105. Exemption from taxes and legal process. The
22 right of a person to a retirement allowance or any other
23 benefit under this chapter and the moneys money in the fund
24 created under this chapter ~~is~~ are not:

25 (1) subject to execution, garnishment, attachment, or

1 any other process;

2 (2) subject to state, county, or municipal taxes
3 except for:

4 (a) for the amount received in excess of \$12,000; or

5 (b) a refund paid under 19-3-703 of a member's
6 contributions picked up by an employer after June 30, 1985,
7 as provided in 19-3-701; or

8 (3) assignable except as in this chapter specifically
9 provided."

10 **Section 4.** Section 19-4-706, MCA, is amended to read:

11 "19-4-706. Exemption from taxation and legal process.

12 The pensions, annuities, or any other benefits accrued or
13 accruing to any person under the provisions of the
14 retirement system and the accumulated contributions and cash
15 and securities in the various funds of the retirement system
16 are:

17 (1) exempted from any state, county, or municipal tax
18 of the state of Montana except for:

19 (a) the amount received in excess of \$12,000; or

20 (b) a withdrawal paid under 19-4-603 of a member's
21 contributions picked up by an employer after June 30, 1985,
22 as provided in 19-4-602;

23 (2) not subject to execution, garnishment, attachment
24 by trustee process or otherwise, in law or equity, or any
25 other process; and

1 (3) unassignable except as specifically provided in
2 this chapter."

3 **Section 5.** Section 19-5-704, MCA, is amended to read:

4 "19-5-704. Exemption from taxes and legal process. (1)
5 ~~Any-money~~ Money received or to be paid as a member's
6 annuity, state annuity, or return of deductions or the right
7 of any of these ~~shall--be~~ is exempt from ~~any-state-or~~
8 ~~municipal-tax-and-from~~ levy, sale, garnishment, attachment,
9 or any other process ~~whatsoever~~ and ~~shall-be~~ is unassignable
10 except as specifically provided in 19-5-705.

11 (2) The first \$12,000 received under this chapter is
12 exempt from state, county, or municipal taxation."

13 **Section 6.** Section 19-6-705, MCA, is amended to read:

14 "19-6-705. Exemption from taxes and legal process. Any
15 money received or to be paid as a member's annuity, state
16 annuity, or return of deductions or the right of any of
17 these is:

18 (1) exempt from any state, county, or municipal tax
19 except for:

20 (a) the amount received in excess of \$12,000; or
21 (b) a refund paid under 19-6-403 of a member's
22 contributions picked up by an employer after June 30, 1985,
23 as provided in 19-6-402;

24 (2) exempt from levy, sale, garnishment, attachment,
25 or any other process; and

1 (3) unassignable except as specifically provided in
2 19-6-706."

3 **Section 7.** Section 19-7-705, MCA, is amended to read:

4 "19-7-705. Exemption from taxes and legal process. Any
5 money received or to be paid as a member's annuity, state
6 annuity, or return of deductions or the right of any of
7 these is:

8 (1) exempt from any state, county, or municipal tax
9 except for:

10 (a) the amount received in excess of \$12,000; or
11 (b) a refund paid under 19-7-304(1) of a member's
12 contributions picked up by an employer after June 30, 1985,
13 as provided in 19-7-403;

14 (2) exempt from levy, sale, garnishment, attachment,
15 or any other process; and

16 (3) unassignable except as specifically provided in
17 19-7-706."

18 **Section 8.** Section 19-8-805, MCA, is amended to read:

19 "19-8-805. Exemption from taxes and legal process. Any
20 money received or to be paid as a member's annuity, state
21 annuity, or return of deductions or the right of any of
22 these is:

23 (1) exempt from any state, county, or municipal tax
24 except for:

25 (a) the amount received in excess of \$12,000; or

1 (b) a refund paid under 19-8-503 of the member's
 2 contributions picked up by an employer after June 30, 1985,
 3 as provided in 19-8-502;

4 (2) exempt from levy, sale, garnishment, attachment,
 5 or any other process; and

6 (3) unassignable except as specifically provided in
 7 19-8-806."

8 **Section 9.** Section 19-9-1005, MCA, is amended to read:

9 "19-9-1005. **Exemption from taxes.** Any money paid in
 10 accordance with the provisions of this chapter is exempt
 11 from any state, county, or municipal tax except for:

12 (1) the amount received in excess of \$12,000; or

13 (2) a refund paid under 19-9-304 of a member's
 14 contributions picked up by an employer after June 30, 1985,
 15 as provided in 19-9-601."

16 **Section 10.** Section 19-10-504, MCA, is amended to
 17 read:

18 "19-10-504. **Protection of benefits from legal process**
 19 **and taxation.** (1) The benefits provided for in this part are
 20 not subject to execution, garnishment, attachment, or the
 21 operation of bankruptcy, insolvency, or other process of law
 22 and are unassignable except as specifically provided in
 23 19-10-505.

24 (2) The first \$12,000 of benefits received under this
 25 part are exempt from state, county, and municipal taxation."

1 **Section 11.** Section 19-11-612, MCA, is amended to
 2 read:

3 "19-11-612. **Protection of benefits from legal process**
 4 **and taxation -- nonassignability.** (1) Any payments made or
 5 to be made under this chapter are not subject to judgments,
 6 garnishment, execution, or other legal process. A person
 7 entitled to a pension may not assign the right, and the
 8 association and trustees may not recognize any assignment or
 9 pay over any sum so assigned.

10 (2) The first \$12,000 of benefits received under this
 11 chapter are exempt from state, county, and municipal
 12 taxation."

13 **Section 12.** Section 19-12-407, MCA, is amended to
 14 read:

15 "19-12-407. **Payment of pension benefits -- exemption**
 16 **from taxation.** (1) All payments under the volunteer
 17 firefighters' pension plan must be approved by the board and
 18 paid by warrants drawn upon the pension trust fund, payable
 19 to the order of the individual qualified volunteer
 20 firefighter or the beneficiary as provided in 19-12-405(1).

21 (2) The first \$12,000 of benefits received under this
 22 chapter are exempt from state, county, and municipal
 23 taxation."

24 **Section 13.** Section 19-13-1003, MCA, is amended to
 25 read:

1 "19-13-1003. Exemption from taxes. Any money paid in
2 accordance with the provisions of this chapter is exempt
3 from any state, county, or municipal tax except for:

- 4 (1) the amount received in excess of \$12,000; or
- 5 (2) refunds paid under 19-13-602 of the member's
- 6 contributions picked up by an employer after June 30, 1987,
- 7 as provided in 19-13-601."

8 **Section 14.** Section 19-21-212, MCA, is amended to
9 read:

10 "19-21-212. Exemption from taxation, legal process,
11 and assessments. All contracts, benefits, and contributions
12 under the optional retirement program and the earnings
13 thereon are:

- 14 (1) except for the amount received in excess of
- 15 \$12,000, exempt from any state, county, or municipal tax;
- 16 (2) not subject to execution, garnishment, attachment,
- 17 or other process;
- 18 (3) not covered or assessable by an insurance guaranty
- 19 association; and
- 20 (4) unassignable except as specifically provided in
- 21 the contracts."

22 NEW SECTION. SECTION 15. STUDY OF TAXATION OF
23 RETIREMENT SYSTEMS. (1) (A) THE REVENUE OVERSIGHT COMMITTEE,
24 AUGMENTED BY THE FIVE PERSONS APPOINTED PURSUANT TO
25 SUBSECTION (2), SHALL STUDY THE TAXATION OF GOVERNMENTAL AND

1 PRIVATE RETIREMENT AND PENSION INCOME, INCLUDING NONMONETARY
2 RETIREMENT BENEFITS, OTHER TYPES OF INCOME RECEIVED BY OLDER
3 PERSONS, AND SIMILAR MATTERS THE COMMITTEE CONSIDERS
4 APPROPRIATE.

5 (B) THE NONLEGISLATIVE MEMBERS OF THE COMMITTEE ARE
6 ENTITLED TO VOTE AND PARTICIPATE IN THE SAME MANNER AS
7 LEGISLATIVE MEMBERS FOR THE PURPOSES OF THE STUDY BUT NOT
8 FOR OTHER COMMITTEE ACTIVITIES. THEY ARE ENTITLED TO THE
9 SAME MILEAGE AND PER DIEM AS LEGISLATIVE MEMBERS.

10 (C) THE COMMITTEE SHALL REPORT ITS RECOMMENDATIONS TO
11 THE 52ND LEGISLATURE AND MAY DRAFT LEGISLATION NECESSARY TO
12 IMPLEMENT THE RECOMMENDATIONS.

13 (2) THE GOVERNOR AND THE LEADERSHIP OF EACH PARTY IN
14 THE SENATE AND IN THE HOUSE OF REPRESENTATIVES SHALL EACH
15 APPOINT ONE NONLEGISLATOR TO MEET WITH THE REVENUE OVERSIGHT
16 COMMITTEE FOR THE PURPOSES OF THE STUDY REQUIRED BY
17 SUBSECTION (1). THE APPOINTEES SHOULD BE INVOLVED WITH TAX,
18 PENSION, AND RETIREMENT ISSUES IN SOME MANNER, EITHER AS
19 REPRESENTATIVES OF A SEGMENT OF THE POPULATION OF RETIRED OR
20 OLDER PERSONS OR BECAUSE OF SOME TECHNICAL, LEGAL, OR
21 ACTUARIAL EXPERTISE.

22 (3) THERE IS APPROPRIATED FROM THE GENERAL FUND FOR
23 THE PERIOD ENDING JUNE 30, 1991, \$30,000 TO THE REVENUE
24 OVERSIGHT COMMITTEE TO CONDUCT THE STUDY REQUIRED BY
25 SUBSECTION (1).

1 NEW SECTION. Section 16. Effective date --
2 retroactive applicability date. (1) (a) [This act] is
3 effective on passage and approval.

4 (b) Chapter 532, Laws of 1989, and section 3, Chapter
5 617, Laws of 1989, are effective on passage and approval of
6 [this act].

7 (2) [This act] applies retroactively, within the
8 meaning of 1-2-109, to taxable years beginning after
9 December 31, 1988.

10 NEW SECTION. SECTION 17. TERMINATION. (1) [SECTIONS 1
11 THROUGH 14] TERMINATE DECEMBER 31, 1990.

12 (2) [SECTION 15] TERMINATES JUNE 30, 1991.

-End-

1 HOUSE BILL NO. 5

2 INTRODUCED BY SWIFT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN EXEMPTION
5 OF \$12,000 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE,
6 AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT
7 PLANS OR SYSTEMS; TO PROVIDE FOR A STUDY OF THE TAXATION OF
8 PENSION AND RETIREMENT SYSTEMS AND TO APPROPRIATE FUNDS FOR
9 THE STUDY; AMENDING SECTIONS 15-30-111, 15-30-136, 19-3-105,
10 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005,
11 19-10-504, 19-11-612, 19-12-407, 19-13-1003, AND 19-21-212,
12 MCA; PROVIDING A RETROACTIVE APPLICABILITY DATE; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THIS ACT AND FOR
14 CHAPTER 532, LAWS OF 1989, AND SECTION 3, CHAPTER 617, LAWS
15 OF 1989; AND PROVIDING TERMINATION DATES."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

19 "15-30-111. Adjusted gross income. (1) Adjusted gross
20 income shall be the taxpayer's federal income tax adjusted
21 gross income as defined in section 62 of the Internal
22 Revenue Code of 1954 or as that section may be labeled or
23 amended and in addition shall include the following:

24 (a) interest received on obligations of another state
25 or territory or county, municipality, district, or other

1 political subdivision thereof;

2 (b) refunds received of federal income tax, to the
3 extent the deduction of such tax resulted in a reduction of
4 Montana income tax liability;

5 (c) that portion of a shareholder's income under
6 subchapter S. of Chapter 1 of the Internal Revenue Code of
7 1954, that has been reduced by any federal taxes paid by the
8 subchapter S. corporation on the income; and

9 (d) depreciation or amortization taken on a title
10 plant as defined in 33-25-105(15).

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

15 (a) all interest income from obligations of the United
16 States government, the state of Montana, county,
17 municipality, district, or other political subdivision
18 thereof;

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

23 (c) all benefits, not in excess of \$3,600 \$12,000,
24 received:

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

1 (ii) under the public employee retirement laws of a
 2 Montana or any other state other than Montana; or
 3 (iii) as an annuity, pension, or endowment under any
 4 private or corporate retirement plan or system;
 5 ~~{d}--all-benefits-paid-under-the--teachers--retirement~~
 6 ~~law-which-are-specified-as-exempt-from-taxation-by-19-4-706;~~
 7 ~~{e}--all--benefits--paid--under--The--Public-Employees--~~
 8 ~~Retirement-System-Act-which-are--specified--as--exempt--from~~
 9 ~~taxation-by-19-3-105;~~
 10 ~~{f}--all--benefits--paid--under--the--highway--patrol~~
 11 ~~retirement-law-which-are-specified-as-exempt--from--taxation~~
 12 ~~by-19-6-705;~~
 13 ~~{g}{d}~~ all Montana income tax refunds or credits
 14 thereof;
 15 ~~{h}--all-benefits-paid-under-19-11-602,-19-11-604,-and~~
 16 ~~19-11-605--to--retired--and--disabled--firefighters,-their~~
 17 ~~surviving-spouses-and-orphans-or-specified-as-exempt--from~~
 18 ~~taxation-by-19-13-1003;~~
 19 ~~{i}--all--benefits--paid--under--the--municipal--police~~
 20 ~~officers--retirement-system-that--are--specified--as--exempt~~
 21 ~~from-taxation-by-19-9-1005;~~
 22 ~~{j}{e}~~ gain required to be recognized by a liquidating
 23 corporation under 15-31-113(1)(a)(ii);
 24 ~~{k}{f}~~ all tips covered by section 3402(k) of the
 25 Internal Revenue Code of 1954, as amended and applicable on

1 January 1, 1983, received by persons for services rendered
 2 by them to patrons of premises licensed to provide food,
 3 beverage, or lodging;
 4 ~~{l}{g}~~ all benefits received under the workers'
 5 compensation laws;
 6 ~~{m}{h}~~ all health insurance premiums paid by an
 7 employer for an employee if attributed as income to the
 8 employee under federal law; and
 9 ~~{n}--all-benefits-paid--under--an--optional--retirement~~
 10 ~~program--that--are--specified--as--exempt--from--taxation-by~~
 11 ~~19-21-212,-and~~
 12 ~~{o}{i}~~ all money received because of a settlement
 13 agreement or judgment in a lawsuit brought against a
 14 manufacturer or distributor of "agent orange" for damages
 15 resulting from exposure to "agent orange".
 16 (3) In the case of a shareholder of a corporation with
 17 respect to which the election provided for under subchapter
 18 S. of the Internal Revenue Code of 1954, as amended, is in
 19 effect but with respect to which the election provided for
 20 under 15-31-202, as amended, is not in effect, adjusted
 21 gross income does not include any part of the corporation's
 22 undistributed taxable income, net operating loss, capital
 23 gains or other gains, profits, or losses required to be
 24 included in the shareholder's federal income tax adjusted
 25 gross income by reason of the election under subchapter S.

1 However, the shareholder's adjusted gross income shall
2 include actual distributions from the corporation to the
3 extent they would be treated as taxable dividends if the
4 subchapter S. election were not in effect.

5 (4) A shareholder of a DISC that is exempt from the
6 corporation license tax under 15-31-102(1)(1) shall include
7 in his adjusted gross income the earnings and profits of the
8 DISC in the same manner as provided by federal law (section
9 995, Internal Revenue Code) for all periods for which the
10 DISC election is effective.

11 (5) A taxpayer who, in determining federal adjusted
12 gross income, has reduced his business deductions by an
13 amount for wages and salaries for which a federal tax credit
14 was elected under section 44B of the Internal Revenue Code
15 of 1954 or as that section may be labeled or amended is
16 allowed to deduct the amount of the wages and salaries paid
17 regardless of the credit taken. The deduction must be made
18 in the year the wages and salaries were used to compute the
19 credit. In the case of a partnership or small business
20 corporation, the deduction must be made to determine the
21 amount of income or loss of the partnership or small
22 business corporation.

23 (6) Married taxpayers filing a joint federal return
24 who must include part of their social security benefits or
25 part of their tier 1 railroad retirement benefits in federal

1 adjusted gross income may split the federal base used in
2 calculation of federal taxable social security benefits or
3 federal taxable tier 1 railroad retirement benefits when
4 they file separate Montana income tax returns. The federal
5 base must be split equally on the Montana return.

6 (7) A taxpayer receiving retirement disability
7 benefits who has not attained age 65 by the end of the
8 taxable year and who has retired as permanently and totally
9 disabled may exclude from adjusted gross income up to \$100
10 per week received as wages or payments in lieu of wages for
11 a period during which the employee is absent from work due
12 to the disability. If the adjusted gross income before this
13 exclusion and before application of the two-earner married
14 couple deduction exceeds \$15,000, the excess reduces the
15 exclusion by an equal amount. This limitation affects the
16 amount of exclusion, but not the taxpayer's eligibility for
17 the exclusion. If eligible, married individuals shall apply
18 the exclusion separately, but the limitation for income
19 exceeding \$15,000 is determined with respect to the spouses
20 on their combined adjusted gross income. For the purpose of
21 this subsection, permanently and totally disabled means
22 unable to engage in any substantial gainful activity by
23 reason of any medically determined physical or mental
24 impairment lasting or expected to last at least 12 months.

25 (8)---A---person---receiving---benefits---described---in

1 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not
 2 exclude benefits described in subsection (2)(c) from
 3 adjusted gross income unless the benefits received under
 4 subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are
 5 less than \$3,600, in which case the person may combine
 6 benefits to exclude up to a total of \$3,600 from adjusted
 7 gross income. (Subsection (2)(k) (2)(f) terminates on
 8 occurrence of 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, not in excess of ~~37600~~ \$12,000,
 16 received:

17 (i) as federal employees' retirement;

18 (ii) as retirement from public employment in a Montana
 19 or any other state other than Montana; or

20 (iii) as an annuity, pension, or endowment under
 21 private or corporate retirement plans or systems;

22 ~~{i}--all-benefits--paid--under--the--Montana--teachers--~~
 23 ~~retirement-system-that-are-specified-as-exempt-from-taxation~~
 24 ~~by-19-4-706;~~

25 ~~{j}--all--benefits--paid--under--the--Montana--Public~~

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

3 ~~{k}--all-benefits-paid-under-the-Montana-highway-patrol~~
 4 ~~officers--retirement--system--that--are-specified-as-exempt~~
 5 ~~from-taxation-by-19-6-705;~~

6 ~~{l}{i} Montana income tax refunds or credits thereof,~~
 7 ~~{m}--all--benefits-paid-under-19-11-602-19-11-604--and~~
 8 ~~19-11-605-to-retired-and-disabled-firemen-or-their-surviving~~
 9 ~~spouses-or-children;~~

10 ~~{n}--all--benefits--paid--under--the--municipal--police~~
 11 ~~officers--retirement--system--that--are-specified-as-exempt~~
 12 ~~from-taxation-by-19-9-1005.~~

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

1 (4) The following additional deductions shall be
2 allowed in deriving taxable income of estates and trusts:

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

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

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

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

13 ~~{6}--A--trust--or--estate--excluding---benefits---under
14 subsections-{2}{i}-through-{2}{k},-{2}{m},-or-{2}{n}-may-not
15 exclude--benefits--described--in--subsection-{2}{h}-from-net
16 income-unless-the-benefits-received-under-subsections-{2}{i}
17 through-{2}{k},-{2}{m},-or-{2}{n}-are-less-than--\$3,600,-in
18 which--case--the--trust--or--estate--may-combine-benefits-to
19 exclude-up-to-a-total-of-\$3,600-from-net-income--"~~

20 **Section 3.** Section 19-3-105, MCA, is amended to read:

21 "19-3-105. Exemption from taxes and legal process. The
22 right of a person to a retirement allowance or any other
23 benefit under this chapter and the moneys money in the fund
24 created under this chapter is are not:

25 (1) subject to execution, garnishment, attachment, or

1 any other process;

2 (2) subject to state, county, or municipal taxes
3 except for:

4 (a) for the amount received in excess of \$12,000; or

5 (b) a refund paid under 19-3-703 of a member's
6 contributions picked up by an employer after June 30, 1985,
7 as provided in 19-3-701; or

8 (3) assignable except as in this chapter specifically
9 provided."

10 **Section 4.** Section 19-4-706, MCA, is amended to read:

11 "19-4-706. Exemption from taxation and legal process.

12 The pensions, annuities, or any other benefits accrued or
13 accruing to any person under the provisions of the
14 retirement system and the accumulated contributions and cash
15 and securities in the various funds of the retirement system
16 are:

17 (1) exempted from any state, county, or municipal tax
18 of the state of Montana except for:

19 (a) the amount received in excess of \$12,000; or

20 (b) a withdrawal paid under 19-4-603 of a member's
21 contributions picked up by an employer after June 30, 1985,
22 as provided in 19-4-602;

23 (2) not subject to execution, garnishment, attachment
24 by trustee process or otherwise, in law or equity, or any
25 other process; and

1 (3) unassignable except as specifically provided in
2 this chapter."

3 **Section 5.** Section 19-5-704, MCA, is amended to read:

4 "19-5-704. Exemption from taxes and legal process. (1)
5 ~~Any-money~~ Money received or to be paid as a member's
6 annuity, state annuity, or return of deductions or the right
7 of any of these ~~shall--be~~ is exempt from ~~any-state-or~~
8 ~~municipal-tax-and-from~~ levy, sale, garnishment, attachment,
9 or any other process ~~whatssoever~~ and ~~shall-be~~ is unassignable
10 except as specifically provided in 19-5-705.

11 (2) The first \$12,000 received under this chapter is
12 exempt from state, county, or municipal taxation."

13 **Section 6.** Section 19-6-705, MCA, is amended to read:

14 "19-6-705. Exemption from taxes and legal process. Any
15 money received or to be paid as a member's annuity, state
16 annuity, or return of deductions or the right of any of
17 these is:

18 (1) exempt from any state, county, or municipal tax
19 except for:

20 (a) the amount received in excess of \$12,000; or

21 (b) a refund paid under 19-6-403 of a member's
22 contributions picked up by an employer after June 30, 1985,
23 as provided in 19-6-402;

24 (2) exempt from levy, sale, garnishment, attachment,
25 or any other process; and

1 (3) unassignable except as specifically provided in
2 19-6-706."

3 **Section 7.** Section 19-7-705, MCA, is amended to read:

4 "19-7-705. Exemption from taxes and legal process. Any
5 money received or to be paid as a member's annuity, state
6 annuity, or return of deductions or the right of any of
7 these is:

8 (1) exempt from any state, county, or municipal tax
9 except for:

10 (a) the amount received in excess of \$12,000; or

11 (b) a refund paid under 19-7-304(1) of a member's
12 contributions picked up by an employer after June 30, 1985,
13 as provided in 19-7-403;

14 (2) exempt from levy, sale, garnishment, attachment,
15 or any other process; and

16 (3) unassignable except as specifically provided in
17 19-7-706."

18 **Section 8.** Section 19-8-805, MCA, is amended to read:

19 "19-8-805. Exemption from taxes and legal process. Any
20 money received or to be paid as a member's annuity, state
21 annuity, or return of deductions or the right of any of
22 these is:

23 (1) exempt from any state, county, or municipal tax
24 except for:

25 (a) the amount received in excess of \$12,000; or

1 (b) a refund paid under 19-8-503 of the member's
2 contributions picked up by an employer after June 30, 1985,
3 as provided in 19-8-502;

4 (2) exempt from levy, sale, garnishment, attachment,
5 or any other process; and

6 (3) unassignable except as specifically provided in
7 19-8-806."

8 **Section 9.** Section 19-9-1005, MCA, is amended to read:

9 "19-9-1005. **Exemption from taxes.** Any money paid in
10 accordance with the provisions of this chapter is exempt
11 from any state, county, or municipal tax except for:

12 (1) the amount received in excess of \$12,000; or

13 (2) a refund paid under 19-9-304 of a member's
14 contributions picked up by an employer after June 30, 1985,
15 as provided in 19-9-601."

16 **Section 10.** Section 19-10-504, MCA, is amended to
17 read:

18 "19-10-504. **Protection of benefits from legal process**
19 **and taxation.** (1) The benefits provided for in this part are
20 not subject to execution, garnishment, attachment, or the
21 operation of bankruptcy, insolvency, or other process of law
22 and are unassignable except as specifically provided in
23 19-10-505.

24 (2) The first \$12,000 of benefits received under this
25 part are exempt from state, county, and municipal taxation."

1 **Section 11.** Section 19-11-612, MCA, is amended to
2 read:

3 "19-11-612. **Protection of benefits from legal process**
4 **and taxation -- nonassignability.** (1) Any payments made or
5 to be made under this chapter are not subject to judgments,
6 garnishment, execution, or other legal process. A person
7 entitled to a pension may not assign the right, and the
8 association and trustees may not recognize any assignment or
9 pay over any sum so assigned.

10 (2) The first \$12,000 of benefits received under this
11 chapter are exempt from state, county, and municipal
12 taxation."

13 **Section 12.** Section 19-12-407, MCA, is amended to
14 read:

15 "19-12-407. **Payment of pension benefits -- exemption**
16 **from taxation.** (1) All payments under the volunteer
17 firefighters' pension plan must be approved by the board and
18 paid by warrants drawn upon the pension trust fund, payable
19 to the order of the individual qualified volunteer
20 firefighter or the beneficiary as provided in 19-12-405(1).

21 (2) The first \$12,000 of benefits received under this
22 chapter are exempt from state, county, and municipal
23 taxation."

24 **Section 13.** Section 19-13-1003, MCA, is amended to
25 read:

1 *19-13-1003. Exemption from taxes. Any money paid in
2 accordance with the provisions of this chapter is exempt
3 from any state, county, or municipal tax except for:

- 4 (1) the amount received in excess of \$12,000; or
- 5 (2) refunds paid under 19-13-602 of the member's
- 6 contributions picked up by an employer after June 30, 1987,
- 7 as provided in 19-13-601."

8 **Section 14.** Section 19-21-212, MCA, is amended to
9 read:

10 *19-21-212. Exemption from taxation, legal process,
11 and assessments. All contracts, benefits, and contributions
12 under the optional retirement program and the earnings
13 thereon are:

- 14 (1) except for the amount received in excess of
- 15 \$12,000, exempt from any state, county, or municipal tax;
- 16 (2) not subject to execution, garnishment, attachment,
- 17 or other process;
- 18 (3) not covered or assessable by an insurance guaranty
- 19 association; and
- 20 (4) unassignable except as specifically provided in
- 21 the contracts."

22 NEW SECTION. SECTION 15. STUDY OF TAXATION OF
23 RETIREMENT SYSTEMS. (1) (A) THE REVENUE OVERSIGHT COMMITTEE,
24 AUGMENTED BY THE FIVE PERSONS APPOINTED PURSUANT TO
25 SUBSECTION (2), SHALL STUDY THE TAXATION OF GOVERNMENTAL AND

1 PRIVATE RETIREMENT AND PENSION INCOME, INCLUDING NONMONETARY
2 RETIREMENT BENEFITS, OTHER TYPES OF INCOME RECEIVED BY OLDER
3 PERSONS, AND SIMILAR MATTERS THE COMMITTEE CONSIDERS
4 APPROPRIATE.

5 (B) THE NONLEGISLATIVE MEMBERS OF THE COMMITTEE ARE
6 ENTITLED TO VOTE AND PARTICIPATE IN THE SAME MANNER AS
7 LEGISLATIVE MEMBERS FOR THE PURPOSES OF THE STUDY BUT NOT
8 FOR OTHER COMMITTEE ACTIVITIES. THEY ARE ENTITLED TO THE
9 SAME MILEAGE AND PER DIEM AS LEGISLATIVE MEMBERS.

10 (C) THE COMMITTEE SHALL REPORT ITS RECOMMENDATIONS TO
11 THE 52ND LEGISLATURE AND MAY DRAFT LEGISLATION NECESSARY TO
12 IMPLEMENT THE RECOMMENDATIONS.

13 (2) THE GOVERNOR AND THE LEADERSHIP OF EACH PARTY IN
14 THE SENATE AND IN THE HOUSE OF REPRESENTATIVES SHALL EACH
15 APPOINT ONE NONLEGISLATOR TO MEET WITH THE REVENUE OVERSIGHT
16 COMMITTEE FOR THE PURPOSES OF THE STUDY REQUIRED BY
17 SUBSECTION (1). THE APPOINTEES SHOULD BE INVOLVED WITH TAX,
18 PENSION, AND RETIREMENT ISSUES IN SOME MANNER, EITHER AS
19 REPRESENTATIVES OF A SEGMENT OF THE POPULATION OF RETIRED OR
20 OLDER PERSONS OR BECAUSE OF SOME TECHNICAL, LEGAL, OR
21 ACTUARIAL EXPERTISE.

22 (3) THERE IS APPROPRIATED FROM THE GENERAL FUND FOR
23 THE PERIOD ENDING JUNE 30, 1991, ~~3307888~~ \$10,000 TO THE
24 REVENUE OVERSIGHT COMMITTEE TO CONDUCT THE STUDY REQUIRED BY
25 SUBSECTION (1).

1 NEW SECTION. Section 16. Effective date --
2 retroactive applicability date. (1) (a) [This act] is
3 effective on passage and approval.

4 (b) Chapter 532, Laws of 1989, and section 3, Chapter
5 617, Laws of 1989, are effective on passage and approval of
6 [this act].

7 (2) [This act] applies retroactively, within the
8 meaning of 1-2-109, to taxable years beginning after
9 December 31, 1988.

10 NEW SECTION. SECTION 17. TERMINATION. (1) [SECTIONS 1
11 THROUGH 14] TERMINATE DECEMBER 31, 1990.

12 (2) [SECTION 15] TERMINATES JUNE 30, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

July 11, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 5 (third reading copy -- blue), respectfully report that HB 5 be amended and as so amended be concurred in:

Sponsor: Swift (Eck)

The purpose of these amendments is to include language in the bill that was apparently inadvertently omitted from the Standing Committee Report of the House Committee on Taxation.

The effect of the language in the amendment is to exempt from income taxation all benefits received from Railroad Retirement (which is social security for railroad employees). /

1. Page 4, line 8.

Strike: "and"

2. Page 4, line 15.

Following: "orange"

Insert: "; and

(j) all benefits received under railroad retirement"

3. Page 10, line 12.

Following: "~~19-9-1005~~"

Insert: ";

(j) all benefits received under railroad retirement"

BE CONCURRED AS AMENDED

Signed: _____


Bob Brown, Chairman

July 12, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 5 (third reading copy -- blue), respectfully report that HB 5 be amended and as so amended be concurred in:

Sponsor: Swift (Eck)

1. Title, line 5.

Following: "BENEFITS"

Insert: ", AFTER ADJUSTMENT FOR INFLATION,"

2. Title, line 7.

Following: "SYSTEMS;"

Insert: "TO EXCLUDE FROM TAXATION AN AMOUNT OF BENEFITS BASED UPON THE PERCENTAGE OF YEARS IN WHICH THE EMPLOYEE PAID INCOME TAXES ON THE CONTRIBUTIONS TO THE PENSION OR ANNUITY;"

3. Page 1.

Following: line 17

Insert: "NEW SECTION. Section 1. Determination of retirement benefits exempt from taxation -- limitations. (1) For the purposes of 15-30-111 and 15-30-136, the amount determined in subsection (1)(a) plus the amount determined in subsection (1)(b), subject to the limits in subsection (2), may be excluded from the amount of benefit income derived from pensions and annuities. The taxpayer is entitled to:

(a) the total amount of all Montana income tax adjustments for pensions and annuities paying benefits to the taxpayer. The tax adjustment for each pension or annuity is the amount of benefits from the pension or annuity received during the year multiplied by the product of 35% times a fraction with a numerator that is the number of years Montana income taxes were paid on contributions the employee made to the pension or annuity over a denominator that is the number of years the employee made contributions to the pension or annuity.

(b) \$12,000 in benefits, adjusted by the department of revenue by the inflation factor in 15-30-101(8), for each taxpayer regardless of the number of pensions or annuities paying benefits to the taxpayer.

(2) The allowable exclusion amount calculated in subsection (1) is limited to:

(a) the exclusion amount calculated pursuant to subsection (1); or

(b) the benefits received from pensions and annuities."

Renumber: subsequent sections

4. Page 2, lines 23 and 24.

Strike: "all" on line 23 through "received" on line 24

Insert: "the allowable exclusion amount of benefits from a pension or annuity, determined pursuant to [section 1]"

5. Page 9, lines 15 and 16.

Strike: "all" on line 15 through "received" on line 16

Insert: "the allowable exclusion amount of benefits from a pension or annuity, determined pursuant to [section 1]"

6. Page 12, line 4.

Strike: "for"

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

7. Page 12, line 19.

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

8. Page 13, line 11.

Strike: "The first \$12,000"

Insert: "Benefits"

Strike: "is"

Insert: "are"

9. Page 13, line 12.

Following: "taxation"

Insert: "to the extent authorized under [section 1]"

10. Page 13, line 20.

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

11. Page 14, line 10.

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

12. Page 14, line 25.

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

13. Page 15, line 12.

Strike: "\$12,000"

Insert: "the exclusions provided in [section 1]"

14. Page 15, line 24.

Strike: "The first \$12,000 of benefits"

Insert: "Benefits"

15. Page 15, line 25.

Following: "taxation"

Insert: "to the extent authorized under [section 1]"

16. Page 16, line 10.
Strike: "The first \$12,000 of benefits"
Insert: "Benefits"

17. Page 16, line 12.
Following: "taxation"
Insert: "to the extent authorized under [section 1]"

18. Page 16, line 21.
Strike: "The first \$12,000 of benefits"
Insert: "Benefits"

19. Page 16, line 23.
Following: "taxation"
Insert: "to the extent authorized under [section 1]"

20. Page 17, line 4.
Strike: "\$12,000"
Insert: "the exclusions provided in [section 1]"

21. Page 17, lines 14 and 15.
Strike: "except" on line 14 through "\$12,000" on line 15
Insert: "to the extent authorized under [section 1]"

22. Page 17, lines 23 through 25.
Strike: "1" on line 23 through "(2)" on line 25

23. Page 18, lines 5 through 9.
Strike: subsection (b) in its entirety
Renumber: subsequent subsection

24. Page 18, lines 13 through 21.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection


25. Page 18.
Following: line 25
Insert: "NEW SECTION. Section 17. Codification instruction.
[Section 1] is intended to be codified as an integral part of
Title 15, chapter 30, and the provisions of Title 15, chapter
30, apply to [section 1]"
Renumber: subsequent sections

26. Page 19, line 11.
Strike: "14"
Insert: "15"

27. Page 19, line 12.
Strike: "15"
Insert: "16"

BE CONCURRED IN AS AMENDED

Signed: _____


Bob Brown, Chairman