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Senate BILL NO. *1*
 INTRODUCED BY *Dwight Lockman* *Rockie Hall* *Kelsted*
John Stimmel *Brown* *Rasmussen* *Hagen* *Doorn* *Troy*
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A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE AMOUNT OF INCOME TAX EXEMPTIONS BY AMENDING SECTIONS 84-4910 AND 84-4914, R.C.M. 1947."

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

Section 1. Section 84-4910, R.C.M. 1947, is amended to read as follows:

"84-4910. Exemptions. (a) Allowance of Personal Exemption. In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(b) Taxpayer and Spouse. An exemption of ~~six-hundred fifty-dollars-(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976, for the taxpayer; and an additional exemption of ~~six-hundred-fifty dollars--(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976 for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) Additional Exemption for Taxpayer or Spouse Aged

~~Sixty-five-(65)~~ or More. (1) For taxpayer. An additional exemption of ~~six-hundred-fifty-dollars-(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976, for the taxpayer if he has attained the age of ~~sixty-five-(65)~~ before the close of his taxable year.

(2) For spouse. An additional exemption of ~~six-hundred fifty-dollars-(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of ~~sixty-five-(65)~~ before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(d) Additional Exemption for Blindness of Taxpayer or Spouse. (1) For taxpayer. An additional exemption of ~~six hundred-fifty-dollars-(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976, for the taxpayer if he is blind at the close of his taxable year.

(2) For spouse. An additional exemption of ~~six-hundred fifty--dollars--(\$650)~~ \$1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1976, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in

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1 which the taxable year of the taxpayer begins, has no gross
 2 income and is not the dependent of another taxpayer. For the
 3 purposes of this paragraph, the determination of whether the
 4 spouse is blind shall be made as of the close of the taxable
 5 year of the taxpayer, except that if the spouse dies during
 6 such taxable year such determination shall be made as of the
 7 time of such death.

8 (3) Blindness defined. For purposes of this
 9 subsection, an individual is blind only if his central
 10 visual acuity does not exceed 20/200 in the better eye with
 11 correcting lenses, or if his visual acuity is greater than
 12 20/200 but is accompanied by a limitation in the fields of
 13 vision such that the widest diameter of the visual field
 14 subtends an angle no greater than 20 degrees.

15 (e) Additional Exemption for Dependents. (1) In
 16 general. An exemption of ~~six-hundred-fifty-dollars-(\$650)~~
 17 ~~\$1,000~~ shall be allowed for taxable years beginning after
 18 December 31, ~~1973~~ 1976, for each dependent:

19 (A) Whose gross income for the calendar year in which
 20 the taxable year of the taxpayer begins is less than ~~six~~
 21 ~~hundred--fifty--dollars--(\$650)~~ ~~\$1,000~~ shall be allowed for
 22 taxable years beginning after December 31, ~~1973~~ 1976, or

23 (B) Who is a child of the taxpayer and who (i) has not
 24 attained the age of ~~nineteen-(19)~~ years at the close of the
 25 calendar year in which the taxable year of the taxpayer

1 begins, or (ii) is a student.

2 (2) Exemption denied in case of certain married
 3 dependents. No exemption ~~shall~~ may be allowed under this
 4 subsection for any dependent who has made a joint return
 5 with his spouse for the taxable year beginning in the
 6 calendar year in which the taxable year of the taxpayer
 7 begins.

8 (3) Child defined. For purposes of paragraph (1)(B),
 9 the term "child" means an individual who is a son, stepson,
 10 daughter, or stepdaughter of the taxpayer.

11 (4) Student and educational institution defined. For
 12 purposes of paragraph (1)(B)(ii), the term "student" means
 13 an individual who during each of ~~five-(5)~~ calendar months
 14 during the calendar year in which the taxable year of the
 15 taxpayer begins:

16 (A) Is a full-time student at an educational
 17 institution; or

18 (B) Is pursuing a ~~full~~ full-time course of
 19 institutional ~~on-farm~~ training under the supervision of an
 20 accredited agent of an educational institution or of a state
 21 or political subdivision of a state. For purposes of this
 22 paragraph, the term "educational institution" means only an
 23 educational institution which normally maintains a regular
 24 faculty and curriculum and normally has a regularly
 25 organized body of students in attendance at the place where

1 its educational activities are carried on.

2 (f) General Definition. For purposes of this section,

3 the term "dependent" means any of the following individuals

4 over half of whose support for the calendar year in which

5 the taxable year of the taxpayer begins was received from

6 the taxpayer:

7 (1) A son or daughter of the taxpayer or a descendant

8 of either;

9 (2) A stepson or stepdaughter of the taxpayer;

10 (3) A brother, sister, stepbrother, or stepsister of

11 the taxpayer;

12 (4) The father or mother of the taxpayer or an

13 ancestor of either;

14 (5) A stepfather or stepmother of the taxpayer;

15 (6) A son or daughter of a brother or sister of the

16 taxpayer;

17 (7) A brother or sister of the father or mother of the

18 taxpayer;

19 (8) A son-in-law, daughter-in-law, father-in-law,

20 mother-in-law, brother-in-law, or sister-in-law of the

21 taxpayer;

22 (9) An individual who, for the taxable year of the

23 taxpayer, has as his principal place of abode the home of

24 the taxpayer and is a member of the taxpayer's household;

25 or

1 (10) An individual who

2 (A) is a descendant of a brother or sister of the

3 father or mother of the taxpayer;

4 (B) for the taxable year of the taxpayer received

5 institutional care required by reason of a physical or

6 mental disability; and

7 (C) before receiving such institutional care, was a

8 member of the same household as the taxpayer.

9 (g) Rules Relating to General Definition. For purposes

10 of this section:

11 (1) The terms "brother" and "sister" include a brother

12 or sister by the half blood.

13 (2) In determining whether any of the relationships

14 specified in subsection (a) or paragraph (1) of this

15 subsection ~~exists~~ exist, a legally adopted child of an

16 individual shall be treated as a child of such individual by

17 blood.

18 (h) Determination of Marital Status. For purposes of

19 this part:

20 (1) The determination of whether an individual is

21 married shall be made as of the close of his taxable year

22 except that if his spouse dies during his taxable year such

23 determination shall be made as of the time of such death;

24 and

25 (2) An individual legally separated from his spouse

1 under a decree of divorce or of separate maintenance shall
2 not be considered as married.

3 (i) Proration of exemption deduction in the case of a
4 nonresident taxpayer.

5 (1) The exemption deduction shall be prorated
6 according to the ratio the taxpayer's Montana adjusted gross
7 income bears to his federal adjusted gross income."

8 Section 2. Section 84-4914, R.C.M. 1947, is amended to
9 read as follows:

10 "84-4914. Returns and payment of tax -- penalty and
11 interest -- refunds -- credits. (1) Every single individual
12 and every married individual not filing a joint return with
13 his or her spouse and having a gross income for the taxable
14 year of more than ~~six hundred sixty five dollars (\$665)~~
15 \$1,115 and married individuals not filing separate returns
16 and having a combined gross income for the taxable year of
17 more than ~~one thousand three hundred thirty dollars~~
18 ~~(\$1,330)~~ \$2,230 shall be liable for a return to be filed on
19 such forms and according to such rules and ~~regulations~~
20 the department of revenue may prescribe. The gross income
21 amounts referred to in the preceding sentence shall be
22 increased by ~~six hundred dollars (\$600)~~ \$1,000 for each
23 additional personal exemption allowance the taxpayer is
24 entitled to claim for himself and his spouse under section
25 subsections (c) and (d) of 84-4910 (c) and (d). A

1 nonresident shall be required to file a return if his gross
2 income for the taxable year derived from sources within
3 Montana exceeds the amount of the exemption deduction he is
4 entitled to claim for himself and his spouse under the
5 provisions of ~~section subsections 84-4910 (b), (c) and (d)~~
6 of 84-4910, as prorated according to ~~paragraph subsection~~
7 84-4910(i) of said section.

8 (2) In accordance with instructions set forth by the
9 department, every taxpayer who is married and living with
10 husband or wife and is required to file a return may, at his
11 or her option, file a joint return with husband or wife even
12 though one of the spouses has neither gross income nor
13 deductions. If a joint return is made, the tax shall be
14 computed on the aggregate taxable income and the liability
15 with respect to the tax shall be joint and several. If a
16 joint return has been filed for a taxable year, the spouses
17 may not file separate returns after the time for filing the
18 return of either has expired, unless the department so
19 consents.

20 (3) If any such taxpayer is unable to make his own
21 return, the return shall be made by a duly authorized agent
22 or by a guardian or other person charged with the care of
23 the person or property of such taxpayer.

24 (4) All taxpayers, including, but not limited to those
25 subject to the provisions of sections 84-4939 and 84-4943,

1 shall compute the amount of income tax payable and shall, at
 2 the time of filing the return required by this act, pay to
 3 the department any balance of income tax remaining unpaid
 4 after crediting the amount withheld as provided by section
 5 84-4943, and/or any payment made by reason of an estimated
 6 tax return provided for in section 84-4939; provided,
 7 however, the tax so computed is greater by one-dollar--~~(\$1)~~
 8 than the amount withheld and/or paid by estimated return as
 9 provided in this act.

10 If the amount of tax withheld and/or payment of
 11 estimated tax exceeds by more than one-dollar--~~(\$1)~~ the
 12 amount of income tax as computed, the taxpayer shall be
 13 entitled to a refund of the excess.

14 (5) As soon as practicable after the return is filed,
 15 the department shall examine and verify the tax.

16 (6) If the amount of tax as verified is greater than
 17 the amount theretofore paid, the excess shall be paid by the
 18 taxpayer to the department within thirty--~~(30)~~ days after
 19 notice of the amount of the tax as computed with interest
 20 added at the rate of nine--per-centum--~~(9%)~~ per annum or
 21 fraction thereof on the additional tax. In such case there
 22 shall be no penalty because of such understatement, provided
 23 the deficiency is paid within thirty--~~(30)~~ days after the
 24 first notice of the amount is mailed to the taxpayer.

25 If payment is not made within thirty--~~(30)~~ days or if

1 the understatement is due to negligence on the part of the
 2 taxpayer, but without fraud, there shall be added to the
 3 amount of the deficiency five--per-centum--~~(5%)~~ thereof;
 4 provided, however, that no deficiency penalty shall be less
 5 than two-dollars--~~(\$2)~~. Interest will be computed at the rate
 6 of nine--per-centum--~~(9%)~~ per annum or fraction thereof on the
 7 additional assessment. Except as otherwise expressly
 8 provided in this subdivision, the interest shall in all
 9 cases be computed from the date the return and tax was ~~were~~
 10 originally due (as distinguished from the due date as it may
 11 have been extended) to the date of payment.

12 If the time for filing a return is extended, the
 13 taxpayer shall pay, in addition, interest thereon at the
 14 rate of nine--per-centum--~~(9%)~~ per annum from the time when
 15 the return was originally required to be filed to the time
 16 of payment."

-End-

STATE OF MONTANA

REQUEST NO. 72-77

FISCAL NOTE

Form BD-1

In compliance with a written request received January 14, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 1 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

Senate Bill 1 calls for an increase of \$350 (\$650-\$1000) in the personal exemption allowance for taxable income. This exemption would apply to the taxpayer, spouse, dependents, taxpayers over 65, taxpayer's spouse over 65, blind taxpayers, and blind spouses of taxpayers.

ASSUMPTIONS

1. The Department of Revenue income tax revenue projections of \$123.732M in FY 78 and \$140.093M in FY 79 were assumed to be correct.
2. The portion of tax, within each of the \$1000 brackets of Montana taxable income (up to \$50,000), will remain constant throughout the biennium.
3. The change in taxes resulting from this legislation equals \$350 x average number of exemptions x the marginal tax rate for each bracket x the number of taxpayers in each bracket.
4. There will be additional refunds in FY 78 because taxes will be withheld assuming a \$650 exemption the last half of FY 77. This will result in an additional 5% loss of revenue in FY 78.
5. Due to the nature of income tax data a 2% error factor was used.
6. The tax tables will remain unchanged throughout the biennium.
7. Administrative costs will remain unchanged throughout the biennium.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Income tax collections under current law.	\$123.732M	\$140.093M
Income tax collections by increasing the amount of exemptions under proposed law.	<u>\$110.367M-\$106.039M</u>	<u>\$125.815M-\$120.881M</u>
DECREASE IN REVENUE	<u>\$13.365M - \$17.693M</u>	<u>\$14.278M - \$19.212M</u>

LONG-RANGE EFFECTS

Income tax collections will decrease by 10%-14% in future years due to this proposed legislation.

TECHNICAL NOTE

No mention of which tax years are affected. Should have:

"Subsection b. This act is effective for taxable years beginning on or after January 1, 1977." If this is to be effective for calendar year 1977.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Zhang for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-2-77