

1 *Senate* BILL NO. *266*
 2 INTRODUCED BY *Martin Fox*
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 6 84-4914, R.C.M. 1947, TO INCREASE THE GROSS INCOME
 7 LIMITATIONS WHICH MUST BE MET BEFORE A TAXPAYER IS REQUIRED
 8 TO FILE A RETURN; TO REQUIRE THAT TAXPAYERS ADOPT THE SAME
 9 FILING STATUS FOR STATE PURPOSES AS THEY UTILIZE ON THEIR
 10 FEDERAL INCOME TAX RETURN; AMENDING SECTION 84-4910, R.C.M.
 11 1947, TO PROVIDE FOR A CREDIT AGAINST INCOME TAX LIABILITY
 12 IN PLACE OF THE PERSONAL EXEMPTION DEDUCTION; AND PROVIDING
 13 AN IMMEDIATE EFFECTIVE DATE."

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

16 Section 1. Section 84-4914, R.C.M. 1947, is amended to
 17 read as follows:

18 "84-4914. Returns and payment of tax -- penalty and
 19 interest -- refunds -- credits. (1) Every single individual
 20 and every married individual not filing a joint return with
 21 his or her spouse and having a gross income for the taxable
 22 year of ~~more than six hundred sixty five dollars (\$665)~~ in
 23 excess of \$1,750 and married individuals not filing separate
 24 returns and having a combined gross income for the taxable
 25 year of ~~more than one thousand three hundred thirty~~ dollars

1 ~~(\$1,330)~~ in excess of \$2,900 shall be liable for a return
 2 to be filed on such forms and according to such rules and
 3 regulations as the department of revenue may prescribe. The
 4 ~~preceding~~ gross income amounts ~~referred to in the~~ ~~preceding~~
 5 sentence limits shall be increased by ~~six hundred dollars~~
 6 ~~(\$600)~~ \$900 for each additional personal exemption allowance
 7 the taxpayer is entitled to claim for himself and his spouse
 8 under section 84-4910 ~~(c)(3) and (d)(4)~~. A nonresident
 9 single individual or married individual not filing a joint
 10 return with his spouse is required to file a return if his
 11 gross income for the taxable year derived from sources
 12 within Montana exceeds the amount allowed for such
 13 individuals by this subsection, as prorated according to
 14 84-4910(9). A nonresident married couple making a joint
 15 return shall ~~be~~ is required to file a return if his their
 16 gross income for the taxable year derived from sources
 17 within Montana exceeds the amount of ~~the exemption deduction~~
 18 allowed for such couples by this subsection ~~he is entitled~~
 19 ~~to claim for himself and his spouse under the provisions of~~
 20 ~~section 84-4910 (b), (c) and (d)~~, as prorated according to
 21 ~~paragraph (f) of said section 84-4910(9).~~

22 (2) ~~In accordance with instructions set forth by the~~
 23 ~~department, every~~ Every taxpayer who is married and living
 24 with husband or wife and who is required to file a return
 25 ~~may at his or her option file a joint return with husband~~

1 ~~or wife even though one of the spouses has neither gross~~
 2 ~~income nor deductions. If a joint return is made, the tax~~
 3 ~~shall be computed on the aggregate taxable income and the~~
 4 ~~liability with respect to the tax shall be joint and several~~
 5 must file in accordance with the manner in which he files
 6 returns to the federal government or, in the event of an
 7 adjustment thereto by the federal government, as finally
 8 ascertained to be proper under the provisions of the
 9 Internal Revenue Code in effect for the taxable year of the
 10 taxpayer. However, a taxpayer who is married and living
 11 with a spouse who files a separate federal individual income
 12 tax return may file a joint state individual income tax
 13 return with his or her spouse. If the tax on a joint return
 14 ~~has been filed for a taxable year, the spouses may not file~~
 15 ~~separate returns after the time for filing the return of~~
 16 ~~either has expired, unless the department so consents shall~~
 17 be computed on the aggregate taxable income reported and the
 18 liability with respect to the tax shall be joint and
 19 several.

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
 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 rate
 14 of ~~nine-per-centum-(9%)~~ per annum from the time when the
 15 return was originally required to be filed to the time of
 16 payment."

17 Section 2. Section 84-4910, R.C.M. 1947, is amended to
 18 read as follows:

19 "84-4910. Exemptions Dependency credits.
 20 ~~(a)(1) Allowance-of-personal-Exemptions~~ In the case of an
 21 individual, the ~~exemptions-provided-by~~ dependency
 22 relationships recognized under this section shall be allowed
 23 as ~~deductions-in-computing-taxable-income~~ credits against
 24 tax liability. Each credit to which the taxpayer is
 25 entitled shall reduce the final tax liability determined

1 under 84-4902 and 84-4902.1 by \$41. Total credits claimed
 2 may not exceed income tax liability for the year as
 3 determined prior to the credits allowed under 84-3514 and
 4 84-4937.

5 ~~(b)(2) Taxpayer-and-Spouse-An-exemption-of-six~~
 6 ~~hundred-fifty-dollars-(\$650) One credit~~ shall be allowed for
 7 taxable years beginning after December 31, ~~1973~~ 1976, for
 8 the taxpayer~~s~~ and an additional ~~exemption-of-six-hundred~~
 9 ~~fifty-dollars-(\$650) credit~~ shall be allowed for taxable
 10 years beginning after December 31, ~~1973~~ 1976, for the spouse
 11 of the taxpayer if a separate return is made by the
 12 taxpayer, and if the spouse, for the calendar year in which
 13 the taxable year of the taxpayer begins, has no gross income
 14 and is not the dependent of another taxpayer.

15 ~~(c)(3) (a) Additional-Exemption-for-Taxpayer-or-Spouse~~
 16 ~~Aged-Sixty-five-(65)-or-More-(i)-For-taxpayers~~ An
 17 additional ~~exemption-of-six-hundred-fifty-dollars-(\$650)~~
 18 credit shall be allowed for taxable years beginning after
 19 December 31, ~~1973~~ 1976, for the taxpayer if he has attained
 20 the age of ~~sixty-five-(65)~~ before the close of his taxable
 21 year.

22 ~~(2)(b) For-spouse~~ An additional ~~exemption-of-six~~
 23 ~~hundred-fifty-dollars-(\$650) credit~~ shall be allowed for
 24 taxable years beginning after December 31, ~~1973~~ 1976, for
 25 the spouse of the taxpayer if a separate return is made by

1 the taxpayer, and if the spouse has attained the age of
2 ~~sixty-five--(65)~~ before the close of such taxable year and,
3 for the calendar year in which the taxable year of the
4 taxpayer begins, has no gross income and is not the
5 dependent of another taxpayer.

6 ~~(d)(4) (a) Additional--Exemption--for--Blindness--of~~
7 ~~Taxpayer--or--Spouse--(1) For--taxpayer.~~ An additional
8 ~~exemption-of-six-hundred-fifty-dollars-(\$650) credit~~ shall
9 be allowed for taxable years beginning after December 31,
10 ~~1973 1976,~~ for the taxpayer if he is blind at the close of
11 his taxable year.

12 ~~(2)(b) For--spouse.~~ An additional exemption ~~of-six~~
13 ~~hundred-fifty-dollars-(\$650) credit~~ shall be allowed for
14 taxable years beginning after December 31, ~~1973 1976,~~ for
15 the spouse of the taxpayer if a separate return is made by
16 the taxpayer and if the spouse is blind and, for the
17 calendar year in which the taxable year of the taxpayer
18 begins, has no gross income and is not the dependent of
19 another taxpayer. For the purposes of this paragraph
20 ~~subsection,~~ the determination of whether the spouse is blind
21 shall be made as of the close of the taxable year of the
22 taxpayer, except that if the spouse dies during such
23 taxable year such determination shall be made as of the time
24 of such death.

25 ~~(3)(c) Blindness--defined.~~ For purposes of this

1 subsection, an individual is blind only if his central
2 visual acuity does not exceed 20/200 in the better eye with
3 correcting lenses, or if his visual acuity is greater than
4 20/200 but is accompanied by a limitation in the fields of
5 vision such that the widest diameter of the visual field
6 subtends an angle no greater than 20 degrees.

7 ~~(e)(5) (a) Additional--Exemption--for--Dependents~~
8 ~~(1) in general.~~ An exemption ~~of-six-hundred-fifty--dollars~~
9 ~~(\$650) A credit~~ shall be allowed for taxable years beginning
10 after December 31, ~~1973 1976,~~ for each dependent:

11 ~~(A)(i) Whose~~ ~~whose~~ gross income for the calendar year
12 in which the taxable year of the taxpayer begins is less
13 than ~~six-hundred-fifty-dollars-(\$650) \$200;~~ shall be allowed
14 ~~for-taxable-years-beginning-after-December-31-1973;~~ or

15 ~~(B)(ii) Who~~ ~~who~~ is a child of the taxpayer and who
16 ~~(1)(A) has not attained the age of nineteen-(19) years~~
17 at the close of the calendar year in which the taxable year
18 of the taxpayer begins; or

19 ~~(1)(B) is a student.~~

20 ~~(2)(b) Exemption-denied-in-case-of-certain--married~~
21 ~~dependents.~~ No exemption shall ~~credit may~~ be allowed under
22 this subsection for any dependent who has made a joint
23 return with his spouse for the taxable year beginning in the
24 calendar year in which the taxable year of the taxpayer
25 begins.

1 ~~(3)(c)~~ Child-defined. For purposes of paragraph--(1)
 2 ~~(b)~~ subsection (5)(a)(ii), the term "child" means an
 3 individual who is a son, stepson, daughter, or stepdaughter
 4 of the taxpayer.

5 ~~(4)(d)~~ Student--and--educational--institution--defined.
 6 For purposes of paragraph--(1)--(B)--(ii) subsection
 7 (5)(a)(iii)(B), the term "student" means an individual who
 8 during each of ~~five~~(5) calendar months during the calendar
 9 year in which the taxable year of the taxpayer begins:

10 ~~(A)(i)~~ ~~is~~ is a full-time student at an educational
 11 institution; or

12 ~~(B)(ii)~~ ~~is~~ is pursuing a full time course of
 13 institutional on-farm training under the supervision of an
 14 accredited agent of an educational institution or of a state
 15 or political subdivision of a state. For purposes of this
 16 paragraph subsection, the term "educational institution"
 17 means only an educational institution which normally
 18 maintains a regular faculty and curriculum and normally has
 19 a regularly organized body of students in attendance at the
 20 place where its educational activities are carried on.

21 ~~(f)(6)~~ General--Definition. For purposes of this
 22 section, the term "dependent" means any of the following
 23 individuals over half of whose support, for the calendar
 24 year in which the taxable year of the taxpayer begins, was
 25 received from the taxpayer:

1 ~~(1)(a)~~ * a son or daughter of the taxpayer, or a
 2 descendant of either;

3 ~~(2)(b)~~ * a stepson or stepdaughter of the taxpayer;

4 ~~(3)(c)~~ * a brother, sister, stepbrother, or stepsister
 5 of the taxpayer;

6 ~~(4)(d)~~ The ~~the~~ father or mother of the taxpayer, or an
 7 ancestor of either;

8 ~~(5)(e)~~ * a stepfather or stepmother of the taxpayer;

9 ~~(6)(f)~~ * a son or daughter of a brother or sister of
 10 the taxpayer;

11 ~~(7)(g)~~ * a brother or sister of the father or mother
 12 of the taxpayer;

13 ~~(8)(h)~~ * a son-in-law, daughter-in-law, father-in-law,
 14 mother-in-law, brother-in-law, or sister-in-law of the
 15 taxpayer;

16 ~~(9)(i)~~ An ~~an~~ individual who, for the taxable year of
 17 the taxpayer, has as his principal place of abode the home
 18 of the taxpayer, and is a member of the taxpayer's
 19 household; or

20 ~~(10)(j)~~ * ~~an~~ an individual who:

21 ~~(A)(i)~~ is a descendant of a brother or sister of the
 22 father or mother of the taxpayer;

23 ~~(B)(ii)~~ for the taxable year of the taxpayer, received
 24 institutional care required by reason of a physical or
 25 mental disability; and

1 ~~{6}{iii}~~ before receiving such institutional care, was
2 a member of the same household as the taxpayer.

3 ~~{9}{1}~~ ~~Rules---Relating---to---General---Definitions~~ For
4 purposes of this section:

5 ~~{1}{a}~~ ~~The~~ ~~the~~ terms "brother" and "sister" include a
6 brother or sister by the half blood;

7 ~~{2}{b}~~ ~~In-determining-whether-any-of-the-relationships~~
8 ~~specified-in-subsection-(a)-or-paragraph-(1)-of-this~~
9 ~~subsection-exists,~~ a legally adopted child of an individual
10 shall be treated as a child of such individual by blood.

11 ~~{4}{B}~~ ~~Determination-of-Marital-Status~~ For purposes
12 of this part chapter:

13 ~~{1}{a}~~ ~~The~~ ~~the~~ determination of whether an individual
14 is married shall be made as of the close of his taxable
15 year; except that if his spouse dies during his taxable
16 year such determination shall be made as of the time of such
17 death; and

18 ~~{2}{b}~~ ~~An~~ ~~an~~ individual legally separated from his
19 spouse under a decree of divorce or of separate maintenance
20 shall not be considered as married.

21 ~~{1}{9}~~ ~~Proration-of-exemption-deduction-in~~ In the case
22 of a nonresident taxpayer, ~~{1}~~ ~~The-exemption-deduction~~ ~~the~~
23 credit shall be prorated according to the ratio the
24 taxpayer's Montana adjusted gross income bears to his
25 federal adjusted gross income."

1 Section 3. Effective date and application. This act is
2 effective on passage and approval and applies to all taxable
3 years beginning after December 31, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 249-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note or Senate Bill 266 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

This bill is an act to increase the gross income limitations which must be met before a taxpayer is required to file a return; to require that taxpayers adopt the same filing status for state purposes as they utilize on their Federal income tax return; to provide for a credit against income tax liability in place of the personal exemption deduction; and providing an immediate effective date.

ASSUMPTIONS

1. Individual income tax collections FY 78: \$123.732M; FY 79: \$140.093M.
2. 70% to 90% of married couples who previously filed separate state income tax returns will, in order to maintain the tax advantage inherent in the ability to file a joint Federal return, file joint state returns.
3. If all married couples who filed separate returns for 1975 had instead filed joint returns, income tax collections would have increased by about \$6 million. The same magnitude increase is assumed for FY 78 and FY 79. In addition the same distribution of joint incomes will hold for FY 78 and FY 79 as for FY 76 (calendar 1975 returns).
4. In 1975: married couples filing joint returns paid \$41.033M in income tax; single persons paid \$19.950M; and married couples filing separately paid \$37.268M. For purposes of this note it is assumed that if the current law were in effect in FY 78 and FY 79 the proportion of total tax paid by each of the three groups would remain approximately the same and that the division of Montana taxable income among the three categories remains constant. The average number of exemptions per return in each group will remain constant.
5. Married couples who would have filed separately under current law but who would file jointly under the proposed law would exhibit approximately the same average effective tax rate ($= \frac{\text{tax paid by group}}{\text{taxable income of group}}$) as those who continue to file jointly.
6. The percentage changes exhibited in 1975 income tax collections in response to the proposed legislation would be mimicked in FY 78 and FY 79.

(Continued on page 2)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

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FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Income tax collections under current law	\$123.732M	\$140.093M
Income tax collections under proposed law	<u>\$127.196M-\$128.681M</u>	<u>\$144.016M-\$145.697M</u>
Increased Tax Collections under Proposed Law	<u>\$3.464M - \$4.949M</u>	<u>\$3.923M - \$5.604M</u>

LONG-RANGE EFFECTS

Income tax revenues could be up to 4% higher in each year of the biennium than those estimated under current law.

PREPARED BY DEPARTMENT OF REVENUE

Richard J. Dwyer
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-77