

1 Senate BILL NO. 422  
 2 INTRODUCED BY Watt by request  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE GROSS  
 5 INCOME LIMITATIONS WHICH MUST BE MET BEFORE A TAXPAYER IS  
 6 REQUIRED TO FILE A RETURN; TO REQUIRE THAT TAXPAYERS ADOPT  
 7 THE SAME FILING STATUS FOR STATE PURPOSES AS THEY UTILIZE ON  
 8 THEIR FEDERAL INCOME TAX RETURN; TO PROVIDE FOR A CREDIT  
 9 AGAINST INCOME TAX LIABILITY IN PLACE OF THE PERSONAL  
 10 EXEMPTION DEDUCTION; TO REDUCE THE SURTAX AND TO PROVIDE FOR  
 11 A LOCAL GOVERNMENT SURTAX; AMENDING SECTIONS 84-4902.1,  
 12 84-4910, AND 84-4914, R.C.M. 1947; AND PROVIDING AN  
 13 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 ~~(\$1,350)~~ 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 (1) of said section 84-4910(9).

22 (2) ~~In accordance with instructions set forth by the~~  
 23 ~~department, every~~ Each 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  
 18 the 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~~ one dollar  
 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~~ one dollar 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~~ thirty days after  
 19 notice of the amount of the tax as computed with interest  
 20 added at the rate of ~~nine per centum~~ nine per centum 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~~ thirty days after the  
 24 first notice of the amount is mailed to the taxpayer.

25 If payment is not made within ~~thirty~~ thirty 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. ~~(a)(1)~~  
 20 ~~Allowance-of-Personal-Exemption.~~ 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, 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 taxpayer.~~ 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. (i) For taxpayers.~~ 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 ~~(i) 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) \$900;~~ 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 ~~(i)(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 ~~(ii)(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)--(iii)~~ 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)(iii) 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)(iii) for~~ the taxable year of the taxpayer, received  
 24 institutional care required by reason of a physical or  
 25 mental disability; and

1 ~~(e)(iii)~~ before receiving such institutional care, was  
2 a member of the same household as the taxpayer.

3 ~~(g)(7) Rules--Relating--to--General--Definition~~ 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 ~~(h)(8) 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 ~~(i)(9) Proration-of-exemption-deduction-in~~ In the case  
22 of a nonresident taxpayer, ~~(i)~~ 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. Section 84-4902.1, R.C.M. 1947, is amended  
2 to read as follows:

3 "84-4902.1. Surtax. After the amount of tax liability  
4 has been computed for all taxable years commencing on or  
5 after December 31, 1970, but before December 31, 1972, each  
6 person filing a Montana individual income tax return shall  
7 add, as a surtax, ~~forty-per-cent--(40%)~~ of the tax  
8 liability; ~~and the amount so arrived at is the amount due~~  
9 ~~the state of Montana for all taxable years commencing on or~~  
10 ~~after December 31, 1972, but before January 1, 1977, each~~  
11 ~~person filing a Montana individual income tax return shall~~  
12 ~~add, as a surtax, 10% of the tax liability.~~ Thereafter the  
13 surtax shall be ~~ten-per-cent--(10%)~~ 5% of the tax liability."

14 Section 4. There is a new R.C.M. section numbered  
15 84-4902.2 that reads as follows:

16 84-4902.2. Local government surtax. (1) For taxable  
17 years beginning after December 31, 1976, each person filing  
18 a Montana individual income tax return shall add 3% of the  
19 tax liability as a local government surtax. For the purpose  
20 of this section, tax liability means the tax computed  
21 according to the rates set forth in 84-4902 and specifically  
22 excludes the amount added as a surtax by 84-4902.1.

23 (2) The proceeds from the local government surtax  
24 shall be placed in an earmarked revenue account to be  
25 distributed among the governments of counties and

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1 incorporated municipalities.

2 Section 5. Effective date and application. This act is  
3 effective on passage and approval and applies to all taxable  
4 years beginning after December 31, 1976.

-End-

## STATE OF MONTANA

REQUEST NO. 461-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 422 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 increases the gross income limitations which must be met before a taxpayer is required to file a return; requires that taxpayers adopt the same filing status for state purposes as they utilize on their federal income tax return; provides for a credit against income tax liability in place of the personal exemption deduction; reduces the surtax and provides for a local government surtax; provides an immediate effective date.

ASSUMPTIONS

1. Total individual income tax liability under present law: CY 77, \$120.846M; CY 78, \$139.542M; CY 79, \$146.076M.
2. 70% to 90% of married couples who previously filed separate state income tax returns will file joint state income tax returns; as a consequence, the total tax liability of all returns would be from 5.97% to 7.68% higher -- assuming that all other provisions of the income tax law remain unchanged.
3. If one temporarily ignores the surtax on the individual income tax, the effect of replacing the personal exemption allowance with a \$41 "dependency credit" will be to reduce the total tax liability of all returns by 1.468%.
4. Each 1% increment in the surtax on tax liability (where the tax liability is determined according to 84-4902, and where the effect of the present personal exemption allowance is neglected) will have the affect of of increasing the "surtax" on tax liability minus dependency credits by 1.2496%.
5. The manner and timing of individual income tax collections will not change from the historical pattern.
6. Administrative costs will be unaffected by the proposed change.

FISCAL IMPACT

	Fiscal Year 1978		
	Current Law	Proposed Law	Increase
Individual Income Tax Collections	\$123.732M	\$129.048M to \$131.078M	\$5.316M to \$7.346M
Local Share of Income Tax	\$ 0	\$ 4.288M to \$ 4.357M	\$4.288M to \$4.357M
NET EFFECT	<u>\$123.732M</u>	<u>\$124.760M to \$126.721M</u>	<u>\$1.028M to \$2.989M</u>

(CONTINUED ON PAGE 2)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_



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## FISCAL IMPACT (Cont.)

	Fiscal Year 1979		
	Current Law	Proposed Law	Increase
Individual Income Tax Collections	\$140.093M	\$146.273M to \$148.634M	\$6.180M to \$8.541M
Local Share of Income Tax	\$ 0	\$ 4.985M to \$ 5.066M	\$4.985M to \$5.066M
NET EFFECT	<u>\$140.093M</u>	<u>\$141.288M to \$143.568M</u>	<u>\$1.195M to \$3.475M</u>

EFFECT ON LOCAL REVENUE

The local share of the individual income tax receipts under the proposed law is about \$4.3 million in FY 1978 and about \$5 million in FY 1979.

LONG-RANGE EFFECTS

State-retained receipts from the individual income tax will be increased by approximately 0% to 2 1/2%.

TECHNICAL NOTE

It is believed that this fiscal note may overstate the anticipated increase in individual income tax receipts attributable to the proposed changes in the laws regarding individual income tax. The main problem in this regard lies in anticipating the effect of the "dependency credit" on an uncertain income distribution after changes in married taxpayers' filing status.

PREPARED BY DEPARTMENT OF REVENUE

*Richard J. Drury*  
 BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 Date: 2-17-77