HOUSE BILL 11

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Taxation.
March 27, 1979	Committee recommend bill, do not pass.
March 27, 1979	Report adopted. Objection.
	Second reading, as amended, do not pass.

House BILL NO. 11

INTRODUCED BY KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE PERSONAL INCOME TAX EXEMPTIONS AND RAISE THE MINIMUM INCOME REQUIREMENTS FOR FILING RETURNS; AMENDING SECTIONS 15-30-112 AND 15-30-142, MCA; PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer.

(b) An additional exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, 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.

(3) (a) An additional exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 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.

(4) (a) An additional exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, 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 which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of ~~this~~ subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of ~~this~~ subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the ~~fields~~ field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of ~~$650~~ $1,000 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~$650~~ $1,000; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

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(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of ~~this~~ subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income."

Section 2. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than ~~$720~~ $1,100 and married individuals not filing separate returns and having a combined gross income for the taxable year of more than ~~$1,445~~ $2,200 shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by ~~$650~~ $1,000 for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses

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may not file separate returns after the time for filing the return of either has expired unless the department so consents.

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

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided~~,--however,~~ the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

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

(6) If the amount of tax as verified is greater than the amount ~~theretofore~~ paid, the excess shall be paid by the

taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer."

Section 3. Effective date. This act is effective for taxable years beginning on or after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 60-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 1979, there is hereby submitted a Fiscal Note for House Bill 11 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 proposed bill raises the personal income tax exemptions and raises the minimum income requirements for filing returns and provides an effective date.

ASSUMPTIONS

1) The Department of Revenue forecast of individual income receipts for the 80-81 biennium is assumed to be the basis for comparison.
2) The percentage decrease in total tax liability which would have resulted if the proposed changes had been in effect for calendar year 1977 will apply equally to FY80 and FY81 under the proposed law.

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Collections		
under current law	$154.268 M	$169.790 M
under proposed law	136.225 M	149.931 M
Estimated Decrease	($ 18.043 M)	($ 19.859 M)

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$ 98.732 M	$108.666 M
under proposed law	87.184 M	95.956 M
Estimated Decrease	($ 11.548 M)	($ 12.710 M)
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	34.056 M	37.483 M
Estimated Decrease	($ 4.511 M)	($ 4.964 M)
Sinking Fund		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	14.985 M	16.492 M
Estimated Decrease	($ 1.984 M)	($ 2.185 M)

Richard L. Dracy for
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1/26/79

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It is noted that revenues to the Public School Equalization Earmarked Revenue Account are used to support the Public School Foundation Program; therefore, any decrease in revenues to that accounting entity either (1) results in a decrease in the Foundation Program schedules, (2) requires additional support from other contributors to the Foundation Program (oil and gas royalties, corporation license tax, individual income tax, State General Fund appropriation, etc.), or (3) requires a state deficiency levy.

Also, for all practicable purposes, revenue decreases to the Long-Range Building Sinking Account are decreases to the General Fund since collections in excess of debt service requirements are transferred to the General Fund.

LONG-RANGE EFFECTS

Individual income tax receipts would be reduced by about 11.7% from the amounts which would obtain under continuation of the present law.