HOUSE BILL 256

IN THE HOUSE

January 18, 1979	Introduced and referred to Committee on Taxation.
March 27, 1979	Committee recommend bill, do not pass.
March 28, 1979	Report adopted.

House BILL NO. 256

INTRODUCED BY Vincent

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY LOWERING AND EVENTUALLY ELIMINATING THE SURTAX; RAISING OVER A PERIOD OF YEARS THE EXEMPTIONS TO $1,000; AND INCREASING THE GROSS INCOME LIMITS REQUIRED TO FILE A RETURN; AMENDING SECTIONS 15-30-104, 15-30-112, 15-30-142, AND 15-30-323, MCA; AND PROVIDING A DATE OF APPLICABILITY."

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

Section 1. Section 15-30-104, MCA, is amended to read:

"15-30-104. Surtax. (1) After the amount of tax liability has been computed each person filing a Montana individual income tax return shall add as a surtax ~~10%~~ a percentage of the tax liability~~, and~~ as follows:

(a) 7% of the tax liability for taxable years beginning after December 31, 1978;

(b) 5% of the tax liability for taxable years beginning after December 31, 1979;

(c) 3% of the tax liability for taxable years beginning after December 31, 1980; and

(d) 0% of the tax liability for taxable years beginning after December 31, 1981.

(2) ~~the~~ The amount so arrived at is the amount due the state."

Section 2. 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~~ $700 shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer.

(b) An additional exemption of ~~$650~~ $700 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~~ $700 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~~ $700 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

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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~~ $700 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~~ $700 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 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~~ $700 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; 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.

(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.

(7) The exemptions listed in (1) through (5) are each increased as follows:

(a) to $750 in taxable years beginning after December 31, 1979;

(b) to $800 in taxable years beginning after December 31, 1980;

(c) to $850 in taxable years beginning after December 31, 1981;

(d) to $900 in taxable years beginning after December 31, 1982;

(e) to $950 in taxable years beginning after December

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31, 1983; and

(f) to $1,000 in taxable years beginning after December 31, 1984."

Section 3. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) ~~Every~~ Except as provided in (2), 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~~ $770 and married individuals not filing separate returns and having a combined gross income for the taxable year of more than ~~$1,445~~ $1,540 shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. ~~The~~ Except as provided in (3), the gross income amounts referred to in the preceding sentence shall be increased by ~~$650~~ $700 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) After the taxable year beginning after December

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31, 1979, a single individual, a married individual filing a single return, and married individuals filing a joint return are not required to file a return unless their gross income exceeds the following amounts:

(a) for taxable years beginning after December 31, 1979, single individuals and married individuals filing a separate return, $825; married couples filing jointly, $1,650;

(b) for taxable years beginning after December 31, 1980, single individuals and married individuals filing a separate return, $880; married individuals filing a joint return, $1,760;

(c) for taxable years beginning after December 31, 1981, single individuals and married individuals filing a separate return, $935; married individuals filing a joint return, $1,870;

(d) for taxable years beginning after December 31, 1982, single individuals and married individuals filing a separate return, $990; married individuals filing a joint return, $1,980;

(e) for taxable years beginning after December 31, 1983, single individuals and married individuals filing a separate return, $1,045; married individuals filing a joint return, $2,090; and

(f) for taxable years beginning after December 31,

1984, single individuals and married individuals filing a separate return, $1,100; married individuals filing a joint return, $2,200.

(3) These gross income amounts are increased by the following amounts for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under (3) and (4) of 15-30-112:

(a) for taxable years beginning after December 31, 1979, $750;

(b) for taxable years beginning after December 31, 1980, $800;

(c) for taxable years beginning after December 31, 1981, $850;

(d) for taxable years beginning after December 31, 1982, $900;

(e) for taxable years beginning after December 31, 1983, $950; and

(f) for taxable years beginning after December 31, 1984, $1,000.

~~(2)~~(4) 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 may not file separate returns after the time for filing the return of either has expired unless the department so consents.

~~(3)~~(5) 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 taxpayer.

~~(4)~~(6) 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)~~(7) As soon as practicable after the return is

filed, the department shall examine and verify the tax.

~~(6)~~(8) 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 4. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142~~(6)~~(8) is not made within 30 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% thereof; provided, however, that no deficiency penalty shall be less than $2. Interest will be computed at the rate of 9% per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate

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of 9% per annum from the time when the return was originally required to be filed to the time of payment."

Section 5. Date of applicability. This act applies to taxable years beginning after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 64-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 79, there is hereby submitted a Fiscal Note for House Bill 256 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 revises the income tax structure by lowering and eventually eliminating the surtax; raising over a period of years the exemptions to $1,000; and increasing the gross income limits required to file a return; and providing a date applicability.

ASSUMPTIONS

a) The percentage decrease in total tax liability for individual income tax which apparently would have occurred if the personal exemption allowance had been $700, and if the surtax had been 7%, for calendar year 1977 will apply to FY80 under the proposed law.

b) The percentage decrease in total tax liability for individual income tax which apparently would have occurred if the personal exemption allowance had been $750, and if the surtax had been 5%, for calendar year 1977 will apply to FY81 under the proposed law.

c) Under continuation of the present law, individual income tax receipts will be $154.268 M in FY80, and $169.790 M in FY81.

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Collections		
under current law	$154.268 M	$169.790 M
under proposed law	147.511 M	156.566 M
Estimated Decrease	($ 6.757 M)	($ 13.224 M)

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$ 98.732 M	$108.666 M
under proposed law	94.407 M	100.202 M
Estimated Decrease	($ 4.325 M)	($ 8.464 M)
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	36.878 M	39.142 M
Estimated Decrease	($ 1.689 M	($ 3.305 M)

CONTINUED ON PAGE 2)

Richard L. Dray for
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1/24/79

FISCAL IMPACT (Cont.)

	FY 80	FY 81
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	16.226 M	17.222 M
Estimated Decrease	($ 0.743 M)	($ 1.455 M)

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

It is estimated that in FY 82 income tax revenues will be 11.1% lower than they would be under the present law, and the percentage reduction increases until, in FY 86, income tax receipts will be 19.7% lower thatn under the present law.