

HB 834 INTRODUCED BY RAMIREZ, ET AL.
RESTRICTIONS ON STATE TAXATION -- REFERENDUM ON
STATUTE

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/11 HEARING
3/19 TABLED IN COMMITTEE

CONSTITUTIONAL AMENDMENT

1 House BILL NO. 934
2 INTRODUCED BY Ramsey Hand

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING STATE
5 TAXATION AND IMPLEMENTING AN AMENDMENT TO ARTICLE VIII OF
6 THE MONTANA CONSTITUTION THAT WILL BE SUBMITTED TO THE
7 QUALIFIED ELECTORS OF MONTANA THAT ALSO SETS RESTRICTIONS ON
8 TOTAL STATE GOVERNMENT TAXATION; PROVIDING THAT THIS
9 PROPOSED IMPLEMENTATION ACT BE SUBMITTED TO THE QUALIFIED
10 ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Restrictions on state taxation. (1) As used
14 in this section:

15 (a) "Personal income of Montana" is the total income
16 received by persons in Montana from all sources, as defined
17 and officially reported by the U.S. department of commerce
18 or its successor agency.

19 (b) "Total base fiscal year state revenue" includes
20 all general and special revenue for the fiscal year
21 beginning July 1, 1988. The term does not include federal
22 funds; bond proceeds; gifts; and employer contributions,
23 premiums, and other payments to the state under unemployment
24 compensation and workers' compensation laws.

25 (c) "Total state revenue" includes all general and

1 special revenues. The term does not include federal funds;
2 bond proceeds; gifts; and employer contributions, premiums,
3 and other payments to the state under unemployment
4 compensation and workers' compensation laws.

5 (2) For the fiscal year beginning July 1, 1989, and
6 each succeeding fiscal year, the legislature may not impose
7 taxes of any kind which, together with all other revenue of
8 the state, except funds excluded from the definition in
9 subsection (1)(c), exceed the revenue limit established in
10 this subsection. The revenue limit must be calculated for
11 each fiscal year and must be equal to the product of the
12 ratio of the total base fiscal year state revenue divided by
13 the personal income of Montana in calendar year 1988
14 multiplied by the personal income of Montana in either the
15 calendar year prior to the fiscal year for which the
16 calculation is being made or by the average of personal
17 income of Montana in the previous 3 calendar years,
18 whichever is greater.

19 (3) If total state revenue for a fiscal year exceeds
20 the revenue limit established under Article VIII, section
21 15, of the Montana constitution and subsection (2) of this
22 section by 1% or more, the excess revenue must be refunded
23 pro rata, based on the liability reported on the Montana
24 state income tax (or its successor tax or taxes) annual
25 returns that are filed after the close of that fiscal year.



-2- INTRODUCED BILL
HB 934

1 If the excess is less than 1%, the excess must be
2 transferred to the general fund.

3 (4) The revenue limit established under Article VIII,
4 section 15, of the Montana constitution and subsection (2)
5 of this section does not apply to taxes imposed for the
6 payment of principal and interest on bonds that are
7 authorized by law.

8 (5) If responsibility for funding a program or
9 programs is transferred from one level of government to
10 another, the revenue limit established under Article VIII,
11 section 15, of the Montana constitution and subsection (2)
12 of this section may be adjusted to accommodate the change.

13 (6) A revenue limit established under Article VIII,
14 section 15, of the Montana constitution and subsection (2)
15 of this section may be exceeded only if:

16 (a) the legislature declares a fiscal emergency by a
17 two-thirds vote of each house;

18 (b) the declaration is specific as to the nature and
19 dollar amount of the emergency and the method by which the
20 emergency should be funded;

21 (c) the emergency is declared before any of the
22 expenses that constitute the emergency request are incurred;

23 (d) the revenue limit is exceeded only during the
24 fiscal year for which the emergency is declared; and

25 (e) no part of the amount representing a refund under

1 subsection (3) of this section is used to fund the
2 emergency.

3 (7) The state government may not reduce the
4 state-financed portion of the costs of any activity or
5 service required of local governments and other political
6 subdivisions.

7 (8) A person who paid a state tax, license, or fee
8 within the 2 years prior to the action may file an action to
9 enforce this section or Article VIII, section 15, of the
10 Montana constitution in the district court of either the
11 judicial district where he resides or in the first judicial
12 district. The state shall pay a prevailing party's
13 reasonable costs and attorney fees.

14 Section 2. Effective date. If approved by the
15 electorate, section 1 of this act is effective November 9,
16 1988.

17 Section 3. Submission to electorate. The question of
18 whether section 1 of this act will become effective shall be
19 submitted to the electors of Montana at the general election
20 to be held November 8, 1988, by printing on the ballot the
21 full title of this act and the following:

22 FOR placing restrictions on state taxation.

23 AGAINST placing restrictions on state taxation.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB834, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act restricting state taxation and implementing an amendment to Article VIII of the Montana Constitution that will be submitted to the qualified electors of Montana that also sets restrictions on total state government taxation; providing that this proposed implementation act be submitted to the qualified electors of Montana; and providing an effective date.

ASSUMPTIONS:

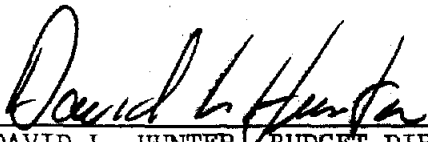
This bill has no effect in the 1989 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If the proposed legislation and the accompanying referendum are passed, growth in "total state revenue", as defined in the bill, would be Constitutionally limited beginning in FY90. Growth in revenue would be limited to growth in state total personal income. (A fall in total personal income in a single year would not necessarily precipitate a fall in state revenues as the bill would allow growth equal to the average growth in personal income over the immediately preceding three years.)

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Section 1, subsection (2) provides a mechanism to refund excess revenue (over 1%) to taxpayers or transfer excess revenue (under 1%) to the general fund. In either case, excess revenue could be generated from gasoline taxes, fish and game license fees, severance taxes, income taxes or any other fee, license or tax revenue. If the excess revenue is over 1%, then the excess must be refunded to taxpayers pro-rata based on the Montana state income tax returns filed after the close of the fiscal year. The refunding requirement would require a department (not specified) to issue refunds from numerous accounts. If the excess revenue is under 1%, then the excess must be transferred to the general fund. The transferring requirement would require a department (not specified) to transfer funds from numerous accounts to the general fund.



DATE 2/26/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

JACK RAMIREZ, PRIMARY SPONSOR

Fiscal Note for HB834, as introduced.

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