

SENATE BILL NO. 194

INTRODUCED BY TOWE, PINSONEAULT

IN THE SENATE

JANUARY 24, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

JANUARY 25, 1991 FIRST READING.

FEBRUARY 5, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 6, 1991 PRINTING REPORT.

FEBRUARY 7, 1991 SECOND READING, DO PASS.

FEBRUARY 8, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 43; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 8, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 9, 1991 FIRST READING.

MARCH 5, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 9, 1991 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 11, 1991 THIRD READING, CONCURRED IN.
AYES, 85; NOES, 12.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 16, 1991 RECEIVED FROM HOUSE.

 SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1991 THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 194
 2 INTRODUCED BY *Paul Vindler*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON
 5 CERTAIN GENERATION-SKIPPING TRANSFERS; REQUIRING THE PERSON
 6 LIABLE FOR THE TAX TO TAKE THE MAXIMUM AMOUNT OF CREDIT
 7 ALLOWED BY FEDERAL LAW; AND PROVIDING AN IMMEDIATE EFFECTIVE
 8 DATE."
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10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because
 12 [section 7] requires the department of revenue to adopt
 13 rules for administering and enforcing the
 14 generation-skipping transfer tax. It is the intent of the
 15 legislature that the department adopt rules necessary for
 16 complying with the federal generation-skipping transfer tax
 17 and that the department model its rules on the federal
 18 regulations implementing the federal tax.
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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. Section 1. Definitions. As used in
 22 [sections 1 through 7], unless the context requires
 23 otherwise, the following definitions apply:

24 (1) "Department" means the department of revenue
 25 provided for in 2-15-1301.

1 (2) "Direct skip" has the meaning given in section
 2 2612(c), Internal Revenue Code.

3 (3) "Federal generation-skipping transfer tax" means
 4 the tax imposed by section 2601, Internal Revenue Code.

5 (4) "Generation-skipping transfer" means the
 6 generation-skipping transfer defined in section 2611,
 7 Internal Revenue Code, when the original transferor is a
 8 resident of Montana on the date of the original transfer or
 9 when the property is real or personal property located in
 10 Montana.

11 (5) "Internal Revenue Code" means the Internal Revenue
 12 Code of 1986, as amended.

13 (6) "Original transferor" means any grantor, donor,
 14 trustor, or testator who by grant, gift, trust, or will
 15 makes a transfer of real or personal property that results
 16 in a federal generation-skipping transfer tax.

17 NEW SECTION. Section 2. Imposition of tax. (1) A tax
 18 is imposed on each generation-skipping transfer, other than
 19 a direct skip, occurring at the same time and as a result of
 20 the death of an individual, in an amount equal to the
 21 maximum federal credit allowable under section 2604,
 22 Internal Revenue Code.

23 (2) If any of the property transferred is real property
 24 in another state or personal property located in another
 25 state that requires the payment of a tax for which credit is

1 received against the federal generation-skipping transfer
 2 tax, the tax due under subsection (1) must be reduced by an
 3 amount that bears the same ratio to the total state tax
 4 credit allowable for federal generation-skipping transfer
 5 tax purposes as the value of the property taxable in the
 6 other state bears to the value of the gross
 7 generation-skipping transfer for federal generation-skipping
 8 transfer tax purposes.

9 NEW SECTION. Section 3. Returns -- payment. (1) A
 10 person required to file a return reporting a
 11 generation-skipping transfer under federal law shall file a
 12 duplicate of the federal return with the department and
 13 shall file any other information as the department may
 14 require. The return must be filed on or before the last day
 15 allowed for filing the federal return. A copy of amended or
 16 supplemental federal returns must be submitted to the
 17 department at the time it is filed with the internal revenue
 18 service.

19 (2) The tax imposed by [section 2] must be paid on or
 20 before the deadline for filing the return. The tax must be
 21 paid to the department and deposited in the general fund.

22 NEW SECTION. Section 4. Liability for tax -- interest
 23 on delinquent tax. The person liable for payment of the
 24 federal generation-skipping transfer tax is liable for the
 25 tax imposed under [section 2]. If the tax imposed by

1 [section 2] is not paid within the time established in
 2 [section 3], the tax is delinquent and draws interest at the
 3 rate of 10% a year.

4 NEW SECTION. Section 5. Tax lien. The tax imposed by
 5 [section 2] is a lien on the property subject to the tax for
 6 a period of 10 years from the time of the
 7 generation-skipping transfer. The payment of the tax and any
 8 interest due releases the lien and discharges the liability
 9 for payment of the tax. If the lien is not perfected by
 10 recording, a transfer for value to a bona fide purchaser
 11 divests the property of the lien. If the lien is perfected
 12 by recording, the rights of the state under the lien have
 13 priority over all subsequent mortgages, purchasers, or
 14 judgment creditors. The department may release the lien
 15 prior to the payment of the tax if adequate security for
 16 payment of the tax is given to the department.

17 NEW SECTION. Section 6. Duty to claim maximum credit.
 18 A person liable for payment of the tax imposed under
 19 [section 2] shall claim the maximum federal credit allowable
 20 for the portion of the state generation-skipping transfer
 21 tax paid with respect to property included in a taxable
 22 generation-skipping transfer. A person claiming less than
 23 the maximum federal credit allowable is liable for the full
 24 amount of the tax imposed under [section 2].

25 NEW SECTION. Section 7. Applicability of other taxes

1 -- rulemaking. The provisions of Title 72, chapter 16, parts
2 1 through 8, relating to the tax on inheritances and
3 transfers, apply to [sections 1 through 6] unless they are
4 in conflict with [sections 1 through 7]. The department
5 shall adopt rules necessary for the administration and
6 enforcement of [sections 1 through 7].

7 NEW SECTION. **Section 8.** Codification instruction.

8 [Sections 1 through 7] are intended to be codified as an
9 integral part of Title 72, chapter 16, and the provisions of
10 Title 72, chapter 16, apply to [sections 1 through 7].

11 NEW SECTION. **Section 9.** Effective date. [This act] is
12 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0194, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a tax on certain generation-skipping transfers; and requiring the person liable for the tax to take the maximum amount of credit allowed by federal law.

ASSUMPTIONS:

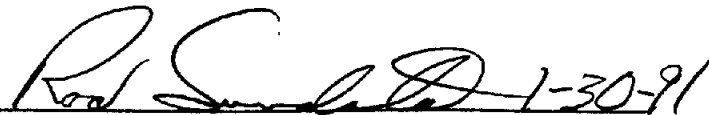
1. No federal returns will be filed for Montana residents or for property exclusively located in Montana, for generation-skipping transfers because of the \$2,000,000 exemption (Internal Revenue Service, Great Falls Office).
2. Revenue will be minimal from prorated returns that include both in-state and out-of-state property for generation-skipping transfers, excluding direct skips occurring at the same time and as a result of the death of an individual.

FISCAL IMPACT:

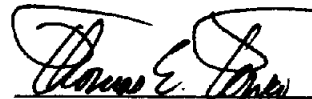
The imposition of this tax would provide additional revenue in those special cases where federal generation-skipping taxes resulted in a federal credit. There is no historical data from which reliable estimates of the actual impact of this proposal can be obtained; however the revenue impact is expected to be small.

In addition, imposition of this tax will not increase the taxpayer's combined federal and state tax liability, but will provide for a transfer of a portion of the federal liability to the state.

There is no impact on Department of Revenue administrative expenses.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/1/91

TOM TOWE, PRIMARY SPONSOR DATE

Fiscal Note for SB0194, as introduced

SB 194

APPROVED BY COMMITTEE
ON TAXATION

1 *Senate* BILL NO. 194
2 INTRODUCED BY *Sen. Vaden O'Connell*
3

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17 and that the department model its rules on the federal
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2 2612(c), Internal Revenue Code.

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4 the tax imposed by section 2601, Internal Revenue Code.

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6 generation-skipping transfer defined in section 2611,
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-End-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 194
Representative O'Keefe

March 9, 1991 11:45 am
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 194 (third reading copy -- blue).

Signed: 
Representative O'Keefe

And, that such amendments to Senate Bill 194 read as follows:

1. Title, line 5.
Following: "TRANSFERS;"
Insert: "AND"
2. Title, lines 7 and 8.
Following: "LAW"
Strike: remainder of line 7 through "DATE" on line 8.
3. Page 5, lines 11 and 12.
Strike: section 9 in its entirety

ADOPT

REJECT

HOUSE

SB 194

SENATE BILL NO. 194

INTRODUCED BY TOWE, PINSONEAULT

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11 ~~NEW SECTION--Section 9--Effective--date--{This act} is~~
12 ~~effective-on-passage-and-approval~~

-End-