

1 *House* BILL NO. *166*
 2 INTRODUCED BY *Schwartz, H. C. F. Kelly*
 3 *A. Baeth - Felt Harper*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING CERTAIN
 5 PROVISIONS FROM FEDERAL ESTATE TAX LAW REGARDING THE
 6 TAXABILITY OF JOINTLY HELD PROPERTY AND MARITAL EXEMPTIONS;
 7 AMENDING SECTION 91-4405, R.C.M. 1947."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 91-4405, R.C.M. 1947, is amended to
 11 read as follows:

12 "91-4405. Joint estates, ~~government bonds, tenants by~~
 13 ~~the--entirety,~~ joint bank accounts, and similarly held
 14 property. ~~Whenever--any property, however acquired, real or~~
 15 ~~personal, tangible or intangible, including government bonds~~
 16 ~~of the United States, inscribed in co-ownership form, or~~
 17 ~~held in joint tenancy by two or more persons, or as tenants~~
 18 ~~by the entirety, or is deposited in any bank or other~~
 19 ~~depository in the joint names of two or more persons and~~
 20 ~~payable to the survivor or survivors of them upon the death~~
 21 ~~of one of them, the right of the survivor or survivors to~~
 22 ~~the immediate possession or ownership is a taxable transfer.~~
 23 ~~The tax is upon the transfer of decedent's interest,~~
 24 ~~one-half or other proper fraction, as evidenced by the~~
 25 ~~written instrument creating the same, as though the property~~

1 ~~to which the transfer relates belonged to the joint tenants,~~
 2 ~~tenants--by--the--entirety,--joint--depositors,--holders--in~~
 3 ~~co-ownership form, or persons, as tenants in common, and had~~
 4 ~~been for inheritance tax purposes, bequeathed or devised to~~
 5 ~~the--survivor or survivors by will, except such part thereof~~
 6 ~~as may be shown to have originally belonged to the--survivor~~
 7 ~~and--never--to--have--belonged to the decedent. This section~~
 8 ~~shall not be construed to repeal or modify the provisions of~~
 9 ~~section 91-4402.~~

10 The value of transfers taxable under this chapter shall
 11 include the value of all property (except real property
 12 situated outside of the United States) to the extent of the
 13 interest therein held as joint tenants by the decedent and
 14 any other person, or deposited, with any person carrying on
 15 the banking business, in their joint names and payable to
 16 either or the survivor, except such part thereof as may be
 17 shown to have originally belonged to such other person and
 18 never to have been received or acquired by the latter from
 19 the decedent for less than an adequate and full
 20 consideration in money or money's worth. Where such
 21 property or any part thereof, or part of the consideration
 22 with which the property was acquired, is shown to have been
 23 at any time acquired by such other person from the decedent
 24 for less than an adequate and full consideration in money or
 25 money's worth, there shall be excepted only such part of the

1 value of such property as is proportionate to the
2 consideration furnished by such other person. Where any
3 property has been acquired by gift, bequest, devise, or
4 inheritance, as a tenancy by the entirety by the decedent
5 and spouse, then to the extent of one-half (1/2) of the
6 value thereof, or, where so acquired by the decedent and any
7 other person as joint tenants and their interests are not
8 otherwise specified or fixed by law, then to the extent of
9 the value of a fractional part to be determined by dividing
10 the value of the property by the number of joint tenants."

11 Section 2. Marital exemption--half of adjusted gross
12 estate. Property passing from a decedent to his surviving
13 spouse is exempt from the inheritance tax to the extent such
14 property does not exceed fifty percent (50%) of the
15 decedent's adjusted gross estate, excluding the first
16 twenty-five thousand dollars (\$25,000) of that estate. The
17 adjusted gross estate is as defined in the Internal Revenue
18 Code of 1954, as amended through December 31, 1974. This
19 section does not apply to any transfer to a surviving spouse
20 of property of a clear value not exceeding twenty-five
21 thousand dollars (\$25,000), the tax on such transfers being
22 determined under section 91-4414, subsection (2).

-End-

STATE OF MONTANA

REQUEST NO. 164-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 75, there is hereby submitted a Fiscal Note for House Bill 166 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 OF PROPOSED LEGISLATION:

House Bill 166 adopts certain provisions from federal estate tax law regarding the taxability of jointly held property and marital exemptions.

ASSUMPTIONS:

1. The fiscal impact is based on a sample of 189 estates handled in FY 74. The sample represents 7.04% of FY 74 estate tax collections.
2. There will be no change in administrative expenses.

FISCAL IMPACT:

	FY 76	FY 77
Estimated inheritance taxes collected under current law	\$ 5,032,279	\$ 5,248,974
Estimated inheritance taxes collected under proposed law	<u>4,896,407</u>	<u>5,107,252</u>
Decrease in estate taxes collected	<u>\$ 135,872</u>	<u>\$ 141,722</u>

CONCLUSION:

Enactment of House Bill 166 would result in an estimated decrease in inheritance tax collections of \$277,594 during the biennium.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 10, 1975