

*Senate* BILL NO. 27

1 INTRODUCTION BY *Murphy*

2 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
3 91-4414, R.C.M. 1947, TO RAISE TO SIXTY THOUSAND DOLLARS  
4 (\$60,000) THE INHERITANCE TAX EXEMPTION ALLOWED TO IMMEDIATE  
5 FAMILY MEMBERS OF THE DECEDENT."  
6

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

8 Section 1. Section 91-4414, R.C.M. 1947, is amended to  
9 read as follows:

10 "91-4414. Exemptions from first ~~\$25,000~~ \$60,000. The  
11 following exemptions from the tax are hereby allowed, the  
12 exemption allowed to each person, institution, association,  
13 corporation and body politic to be taken out of the first  
14 ~~twenty-five--thousand~~ sixty thousand dollars (\$60,000)  
15 passing by any such transfer to such person, institution,  
16 association, corporation or body politic:

17 (1) Transfers totally exempt. All property transferred  
18 to the state or any of its institutions, or to municipal  
19 corporations within the state for strictly county, city,  
20 town, or municipal purposes, shall be exempt. All property  
21 transferred to any society, corporation, institution, or  
22 association, in trust or otherwise, or to any foundation or  
23 trust, organized and operated exclusively for religious,  
24  
25

1 charitable, scientific, literary, or educational purposes,  
2 no part of the net earnings of which inures to the benefit  
3 of any private stockholder or individual, and no substantial  
4 part of the activities of which is carrying on propoganda or  
5 otherwise attempting to influence legislation, shall be  
6 exempt, if any of the following conditions is present:

7 (a) The society, corporation, institution, foundation,  
8 trust, or association is organized solely for religious,  
9 charitable, scientific, literary, or educational purposes  
10 under the laws of this state or of the United States;

11 (b) The property transferred is limited for use within  
12 this state;

13 (c) In the event that the society, corporation,  
14 institution, foundation, trust, or association is organized  
15 or existing under the laws of another state of the United  
16 States or of a foreign state or country, at the date of the  
17 decedent's death any one of the following conditions  
18 existed:

19 (i) The other state, foreign state, or foreign country  
20 did not impose a legacy, succession, or death tax of any  
21 character in respect to property transferred to a similar  
22 society, corporation, institution, foundation, trust, or  
23 association organized or existing under the laws of this  
24 state;

25 (ii) The laws of the other state, foreign state, or

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1 foreign country contained a reciprocal provision under which  
 2 property transferred to a similar society, institution,  
 3 foundation, trust, or association organized or existing  
 4 under the laws of another state of the United States or  
 5 foreign state or country was exempt from legacy, succession  
 6 or death taxes of every character, if the other state of the  
 7 United States or foreign state or country allowed a similar  
 8 exemption in respect to property transferred to a similar  
 9 society, institution, foundation, trust, or association  
 10 organized or existing under the laws of another state of the  
 11 United States or foreign state or country;

12 (iii) The society, corporation, institution,  
 13 foundation, trust, or association owns or operates a  
 14 hospital for crippled children within the United States,  
 15 primarily practicing orthopedics, to which crippled or  
 16 afflicted children from the state of Montana are, without  
 17 discrimination, gratuitously admitted and treated and the  
 18 property transferred is limited for use at such hospital.

19 (2) ~~25,000, 5,000, 2,000 exempt, when: Property of~~  
 20 ~~the clear value of twenty-five thousand dollars (\$25,000),~~  
 21 ~~transferred to the wife or to the husband of the decedent,~~  
 22 ~~five thousand dollars (\$5,000) transferred to each minor~~  
 23 ~~lineal issue of the decedent, or any minor child adopted as~~  
 24 ~~such in conformity with law, or any minor child to whom such~~  
 25 ~~decedent for not less than ten (10) years prior to such~~

1 ~~transfer stood in the mutually acknowledged relation of a~~  
 2 ~~parent, provided, however, such relationship began at or~~  
 3 ~~before the child's fifteenth (15) birthday, and was~~  
 4 ~~continuous for ten (10) years, or any minor lineal issue of~~  
 5 ~~such adopted or mutually acknowledged child, and two~~  
 6 ~~thousand dollars (\$2,000) transferred to each of the lineal~~  
 7 ~~issue who have attained majority and to each of the other~~  
 8 ~~persons who have attained majority described in the first~~  
 9 ~~subdivision of section 91-4409 shall be exempt. Sixty~~  
 10 ~~thousand dollars (\$60,000) exempt, when. Property of the~~  
 11 ~~clear value of sixty thousand dollars (\$60,000), transferred~~  
 12 ~~to:~~

13 (a) the wife of the decedent;  
 14 (b) the husband of the decedent;  
 15 (c) each issue of the decedent;  
 16 (d) any child adopted as such in conformity with law  
 17 by the decedent;

18 (e) any child to whom such decedent for not less than  
 19 ten (10) years prior to such transfer stood in the mutually  
 20 acknowledged relation as parent; provided, however, such  
 21 relationship began at or before the child's fifteenth (15)  
 22 birthday, and was continuous for ten (10) years;

23 (f) any minor issue of such adopted or mutually  
 24 acknowledged child;

25 (g) a brother or sister of the decedent, or

1        (h) any lineal ancestor of the decedent.

2        Such exemption to the wife or husband of the decedent  
3 shall include all statutory dower, curtesy and other  
4 allowances. Any child of the decedent shall be entitled to  
5 credit for so much of the tax paid by the wife or husband as  
6 applied to any property which shall thereafter be  
7 transferred by or from such husband or wife to any such  
8 child, provided the husband or wife does not survive said  
9 decedent to exceed ten years.

10        (3) \$500 exempt, when. Property of the clear value of  
11 five hundred dollars transferred to a descendant of a  
12 brother or sister of the decedent, a spouse of a son or  
13 daughter of the decedent, shall be exempt.

14        (4) Property without the state exempt, when. No tax  
15 shall be imposed upon any tangible personal property of a  
16 resident decedent when such property is located without this  
17 state, and when the transfer of such property is subject to  
18 an inheritance or transfer tax in the state where located  
19 and which tax has actually been paid, secured or guaranteed,  
20 provided such property is not without this state temporarily  
21 nor for the sole purpose of deposit or safekeeping; and  
22 provided the laws of the state where such property is  
23 located allow a like exemption in relation to such property  
24 left by a resident of that state and located in this state."

-End-

51327

## STATE OF MONTANA

CORRECTED

REQUEST NO. 15-75

## FISCAL NOTE

Form BD 15

In compliance with a written request received January 8, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 27 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:

An act to increase the inheritance tax exemption allowed to immediate family members of the decedent from \$25,000 to \$60,000.

## ASSUMPTIONS:

1. Estimated inheritance tax collections under current law would be \$5,032,279 in FY 76 and \$5,248,974 in FY 77.
2. Based on a 7% sample (191 estate returns), taxes due under the proposed law were 46% of taxes due under current law. It is assumed this percentage loss in revenue will apply to all estates reporting.

## FISCAL IMPACT:

	FY 76	FY 77
Inheritance tax collections under current law	\$5,032,279	\$5,248,974
Inheritance tax collections under proposed law	<u>2,314,849</u>	<u>2,414,528</u>
Decrease in collections	<u>\$2,717,430</u>	<u>\$2,834,446</u>

## CONCLUSION:

Enactment of Senate Bill 27 would result in a loss of revenue to the General Fund of approximately \$5.55 million during the biennium.

*Michael S. Pellings*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 17, 1975

Approved by Committee  
on Judiciary

SENATE BILL NO. 27

INTRODUCED BY MURPHY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
91-4414, R.C.M. 1947, TO RAISE TO SIXTY THOUSAND DOLLARS  
(\$60,000) THE INHERITANCE TAX EXEMPTION ALLOWED TO IMMEDIATE  
FAMILY MEMBERS OF THE DECEDENT."

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

Section 1. Section 91-4414, R.C.M. 1947, is amended to  
read as follows:

"91-4414. Exemptions from first ~~\$25,000~~ \$60,000. The  
following exemptions from the tax are hereby allowed, the  
exemption allowed to each person, institution, association,  
corporation and body politic to be taken out of the first  
~~twenty-five--thousand~~ sixty thousand dollars (\$60,000)  
passing by any such transfer to such person, institution,  
association, corporation or body politic:

(1) Transfers totally exempt. All property transferred  
to the state or any of its institutions, or to municipal  
corporations within the state for strictly county, city,  
town, or municipal purposes, shall be exempt. All property  
transferred to any society, corporation, institution, or  
association, in trust or otherwise, or to any foundation or  
trust, organized and operated exclusively for religious,

charitable, scientific, literary, or educational purposes,  
no part of the net earnings of which inures to the benefit  
of any private stockholder or individual, and no substantial  
part of the activities of which is carrying on propaganda or  
otherwise attempting to influence legislation, shall be  
exempt, if any of the following conditions is present:

(a) The society, corporation, institution, foundation,  
trust, or association is organized solely for religious,  
charitable, scientific, literary, or educational purposes  
under the laws of this state or of the United States;

(b) The property transferred is limited for use within  
this state;

(c) In the event that the society, corporation,  
institution, foundation, trust, or association is organized  
or existing under the laws of another state of the United  
States or of a foreign state or country, at the date of the  
decedent's death any one of the following conditions  
existed:

(i) The other state, foreign state, or foreign country  
did not impose a legacy, succession, or death tax of any  
character in respect to property transferred to a similar  
society, corporation, institution, foundation, trust, or  
association organized or existing under the laws of this  
state;

(ii) The laws of the other state, foreign state, or

1 foreign country contained a reciprocal provision under which  
 2 property transferred to a similar society, institution,  
 3 foundation, trust, or association organized or existing  
 4 under the laws of another state of the United States or  
 5 foreign state or country was exempt from legacy, succession  
 6 or death taxes of every character, if the other state of the  
 7 United States or foreign state or country allowed a similar  
 8 exemption in respect to property transferred to a similar  
 9 society, institution, foundation, trust, or association  
 10 organized or existing under the laws of another state of the  
 11 United States or foreign state or country;

12 (iii) The society, corporation, institution,  
 13 foundation, trust, or association owns or operates a  
 14 hospital for crippled children within the United States,  
 15 primarily practicing orthopedics, to which crippled or  
 16 afflicted children from the state of Montana are, without  
 17 discrimination, gratuitously admitted and treated and the  
 18 property transferred is limited for use at such hospital.

19 (2) ~~Property of~~  
 20 ~~the clear value of twenty-five thousand dollars (\$25,000),~~  
 21 ~~transferred to the wife or to the husband of the decedent,~~  
 22 ~~five thousand dollars (\$5,000) transferred to each minor~~  
 23 ~~lineal issue of the decedent, or any minor child adopted as~~  
 24 ~~such in conformity with law, or any minor child to whom such~~  
 25 ~~decedent for not less than ten (10) years prior to such~~

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 2 ~~parent, provided, however, such relationship began at or~~  
 3 ~~before the child's fifteenth (15) birthday, and was~~  
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 11 ~~clear TOTAL COMBINED value of sixty thousand dollars~~  
 12 ~~(\$60,000), transferred to THE FOLLOWING SHALL BE EXEMPT:~~

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- 14 (b) the husband of the decedent;
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- 23 (f) any minor issue of such adopted or mutually  
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1 ~~(h)~~--(G) any lineal DESCENDANTS OR ancestor of the  
 2 decedent. SUCH EXEMPTION SHALL BE ALLOCATED TO EACH OF THE  
 3 ABOVE HEIRS IN DIRECT PROPORTION TO THE VALUE OF THE  
 4 INHERITANCE EACH SUCH HEIR RECEIVES.

5 Such exemption to the wife or husband of the decedent  
 6 shall include all statutory dower, curtesy and other  
 7 allowances. Any child of the decedent shall be entitled to  
 8 credit for so much of the tax paid by the wife or husband as  
 9 applied to any property which shall thereafter be  
 10 transferred by or from such husband or wife to any such  
 11 child, provided the husband or wife does not survive said  
 12 decedent to exceed ten years.

13 (3) \$500 exempt, when. Property of the clear value of  
 14 five hundred dollars transferred to ~~each--of--the--persons~~  
 15 ~~described-in-second-subdivision-of-section-91-4409~~ a BROTHER  
 16 OR SISTER OF THE DECEDENT OR THE descendant of a brother or  
 17 sister of the decedent, a spouse of a son or daughter of the  
 18 decedent, shall be exempt.

19 (4) Property without the state exempt, when. No tax  
 20 shall be imposed upon any tangible personal property of a  
 21 resident decedent when such property is located without this  
 22 state, and when the transfer of such property is subject to  
 23 an inheritance or transfer tax in the state where located  
 24 and which tax has actually been paid, secured or guaranteed,  
 25 provided such property is not without this state temporarily

1 nor for the sole purpose of deposit or safekeeping; and  
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THIRD READING



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-End-