

1 ^H BILL NO. 333
2 INTRODUCED BY Salomon White

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE
5 MONTANA'S INHERITANCE TAX; INCREASING EXEMPTIONS ANNUALLY;
6 AMENDING SECTIONS 91-4405, 91-4409, 91-4410, AND 91-4414,
7 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, is inscribed in co-ownership form, or
17 held by two or more persons in joint tenancy by two or more
18 persons, or as tenants by the entirety, or is deposited in
19 any bank or other depository in the joint names of two or
20 more persons and payable to the survivor or survivors of
21 them upon the death of one of them, the right of the
22 survivor or survivors to the immediate possession or
23 ownership is a taxable transfer. The tax is upon the
24 transfer of ~~decedent's interest, one-half or other proper~~
25 ~~fraction, as evidenced by the written instrument creating~~

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

12 Section 2. Section 91-4409, R.C.M. 1947, is amended to
13 read as follows:

14 "91-4409. Primary rates, where remaining amount not in
15 excess of ~~\$25,000.00~~ twenty-five thousand dollars, when the
16 ~~property or any beneficial interest therein passes by any~~
17 ~~such transfer to any person, institution, association,~~
18 ~~corporation or body politic, where the amount of the~~
19 ~~property shall exceed in value the exemption hereinafter~~
20 ~~specified and shall not exceed in value twenty-five~~
21 ~~thousand dollars (\$25,000.00), the tax hereby imposed shall~~
22 ~~be: The exemptions allowed by 91-4414 shall be subtracted~~
23 ~~from the total value of property or beneficial interests~~
24 ~~transferred to any person, institution, association,~~
25 ~~corporation, or political entity by the decedent. A tax is~~

1 imposed upon the first \$25,000 in value of the remaining
 2 amount of the total value of property or beneficial
 3 interests at the following rates:

4 (1) Two per cent ~~Where at the rate of 2% of the clear~~
 5 value of the interest in property passing to a person if the
 6 person or persons entitled to any beneficial interest in
 7 such property shall be is:

8 (a) the husband, wife, lineal issue, or lineal
 9 ancestor of the decedent; or

10 (b) any child adopted as such in conformity with law
 11 or any child to whom such decedent for not less than ten
 12 {10} years prior to such transfer stood in the mutually
 13 acknowledged relation of a parent, provided ~~however~~ such
 14 relationship began at or before the child's ~~fifteenth~~ {15}
 15 15th birthday and was continuous for ten {10} years; or

16 (c) any lineal issue of such adopted or mutually
 17 acknowledged child; ~~at the rate of two per cent (2%) of the~~
 18 ~~clear value of such interest in such property passing to~~
 19 ~~such persons~~

20 (2) Four per cent ~~Where at the rate of 4% of the~~
 21 clear value of the interest in property passing to a person
 22 if the person or persons entitled to any beneficial interest
 23 in such property shall be is:

24 (a) the brother or sister or a descendant of a brother
 25 or sister of the decedent;

1 (b) a wife of a son or the husband of a daughter of
 2 the decedent; ~~at the rate of four per cent (4%) of the~~
 3 ~~clear value of such interest in such property passing to~~
 4 ~~such persons~~

5 (3) Six per cent ~~Where at the rate of 6% of the clear~~
 6 value of the interest in property passing to a person if the
 7 person or persons entitled to any beneficial interest in
 8 such property shall be is the uncle, aunt, or first cousin
 9 of the decedent; ~~at the rate of six per cent (6%) of the~~
 10 ~~clear value of such interest in such property passing to~~
 11 ~~such persons~~

12 (4) Eight per cent ~~Where the person or persons at the~~
 13 rate of 8% of the clear value of the interest in property
 14 passing if the entity entitled to any beneficial interest in
 15 such property shall be is:

16 (a) a person in any other degree of collateral
 17 consanguinity than is hereinbefore stated; or shall be

18 (b) is a stranger in blood to the decedent; or

19 (c) shall be is a body politic or corporate, ~~at the~~
 20 ~~rate of eight per cent (8%) of the clear value of such~~
 21 ~~interest in such property passing to such person~~
 22 ~~institution, association, corporation or body politic."~~

23 Section 3. Section 91-4410, R.C.M. 1947, is amended to
 24 read as follows:

25 "91-4410. Other rates, where remaining amount in

1 excess of ~~\$25,000.00~~ twenty-five thousand dollars. The
 2 foregoing rates in section 91-4409 are for convenience
 3 termed the primary rates. When the amount of the clear
 4 value of ~~such~~ the remaining amount of the property or
 5 interests exceeds ~~twenty-five thousand dollars (\$25,000.00)~~,
 6 the ~~rates~~ rate of tax upon such excess shall be as follows:

7 (1) ~~Rate where amount \$25,000.00 to \$50,000.00--~~ Upon
 8 ~~upon~~ all in excess of ~~twenty-five thousand dollars~~
 9 ~~(\$25,000.00)~~ and up to ~~fifty thousand dollars (\$50,000.00)~~,
 10 two ~~(2)~~ times the primary ~~rates~~ rate;

11 (2) ~~Rate where amount \$50,000.00 to \$100,000.00--~~ Upon
 12 ~~upon~~ all in excess of ~~fifty thousand dollars (\$50,000.00)~~
 13 and up to ~~one hundred thousand dollars (\$100,000.00)~~, three
 14 ~~(3)~~ times the primary ~~rates~~ rate;

15 (3) ~~Rate where amount over \$100,000.00--~~ Upon ~~upon~~ all
 16 in excess of ~~one hundred thousand dollars (\$100,000.00)~~,
 17 four ~~(4)~~ times the primary ~~rates~~ rate."

18 Section 4. Section 91-4414, R.C.M. 1947, is amended to
 19 read as follows:

20 "91-4414. Exemptions. ~~from--first--\$25,000. The~~
 21 ~~following exemptions from the tax are hereby allowed--the~~
 22 (1) The exemption allowed to each person, institution,
 23 association, corporation, ~~and~~ or body politic to ~~shall~~ be
 24 taken ~~out of the first twenty-five thousand dollars passing~~
 25 ~~by--any--such--transfer--to--such--person,--institution~~

1 ~~association,--corporation--or--body--politic~~ as provided in
 2 91-4409.

3 ~~(1)(2) Transfers~~ The following transfers are totally
 4 exempt:

5 (a) ~~1) all~~ all property transferred to the state or any
 6 of its institutions, or to municipal corporations within the
 7 state for strictly county, city, town, or municipal
 8 purposes, ~~shall be exempt;~~

9 (b) ~~1) all~~ all property transferred to any society,
 10 corporation, institution, or association, in trust or
 11 otherwise, or to any foundation or trust, organized and
 12 operated exclusively for religious, charitable, scientific,
 13 literary, or educational purposes, no part of the net
 14 earnings of which inures to the benefit of any private
 15 stockholder or individual, and no substantial part of the
 16 activities of which is carrying on propaganda or otherwise
 17 attempting to influence legislation, ~~shall be exempt~~ if any
 18 of the following conditions is present:

19 ~~(i) The~~ the society, corporation, institution,
 20 foundation, trust, or association is organized solely for
 21 religious, charitable, scientific, literary, or educational
 22 purposes under the laws of this state or of the United
 23 States;

24 ~~(ii) The~~ the property transferred is limited for use
 25 within this state;

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

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

13 ~~(i)(B) The~~ the laws of the other state, foreign
14 state, or foreign country contained a reciprocal provision
15 under which property transferred to a similar society,
16 institution, foundation, trust, or association organized or
17 existing under the laws of another state of the United
18 States or foreign state or country was exempt from legacy,
19 succession, or death taxes of every character, if the other
20 state of the United States or foreign state or country
21 allowed a similar exemption in respect to property
22 transferred to a similar society, institution, foundation,
23 trust, or association organized or existing under the laws
24 of another state of the United States or foreign state or
25 country;

1 ~~(iii)(C) The~~ the society, corporation, institution,
2 foundation, trust, or association owns or operates a
3 hospital for crippled children within the United States,
4 primarily practicing orthopedics, to which crippled or
5 afflicted children from the state of Montana are, without
6 discrimination, gratuitously admitted and treated and the
7 property transferred is limited for use at such hospital.

8 ~~(2)(3) \$25,000; \$5,000; \$2,000 exempt when--Property~~
9 ~~of--the--clear--value--of--twenty-five--thousand--dollars~~
10 ~~(\$25,000);~~ The following amounts are exempt:

11 (a) property of the clear value of \$150,000
12 transferred to the wife or to the husband surviving spouse
13 of the decedent; five thousand dollars (\$5,000)

14 (b) property of the clear value of \$125,000
15 transferred to:

16 (i) each minor lineal issue of the decedent--or;

17 (ii) any minor child adopted as such in conformity with
18 law--or;

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

25 (iv) any minor lineal issue of such adopted or mutually

1 acknowledged child, and two-thousand-dollars-(\$2,000)
 2 ~~(c) property of the clear value of \$100,000~~
 3 transferred to each of the lineal issue who have attained
 4 majority and to each of the other persons who have attained
 5 majority described in the--first--subdivision--of--section
 6 91-4409(1) shall-be-exempt.

7 (4) Any child of the a decedent shall-be is entitled
 8 to credit for so much of the tax paid by the-wife-or-husband
 9 the decedent's spouse as applied to any property which shall
 10 is thereafter be transferred by or from such husband-or-wife
 11 spouse to any-such the child, provided the husband--or--wife
 12 spouse does not survive said the decedent to exceed ten 10
 13 years.

14 ~~(3)(5) \$500-exempt-when~~ Property of the clear value
 15 of five-hundred-dollars \$10,000 transferred to each of the
 16 persons described in the--second--subdivision--of--section
 17 91-4409(2) shall-be is exempt.

18 (6) The amount of the exemptions allowed in
 19 subsections (3) and (5) shall be increased 3% on July 1,
 20 1978, and on every anniversary of that date.

21 ~~(4)(7) Property-without-the-state-exempt-when~~ No tax
 22 shall may be imposed upon any tangible personal property of
 23 a resident decedent when such property is located without
 24 this state, and when the transfer of such property is
 25 subject to an inheritance or transfer tax in the state where

1 located and which the tax has actually been paid, secured,
 2 or guaranteed, provided such property is not without this
 3 state temporarily nor or for the sole purpose of deposit or
 4 safekeeping, and provided the laws of the state where such
 5 property is located allow a like exemption in relation to
 6 such property left by a resident of that state and located
 7 in this state."

-End-

STATE OF MONTANA

REQUEST NO. 181-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for House Bill 333 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

This bill revises Montana's inheritance tax by increasing exemptions and providing for annual increases in these exemptions.

ASSUMPTIONS

1. The effect of the proposed legislation will not be felt for 18 months - the period between death and due date of inheritance taxes.
2. Collections under current law would be \$7 million in FY 78 and FY 79.
3. Inheritance tax collections are homogeneous - 1/12 of the revenue is collected each month.
4. The full effect of the proposed legislation will be to reduce inheritance tax collections by 70% annually.
5. Administrative costs will remain unchanged - the same amount of returns must be processed.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Inheritance tax collections under current law.	\$7 million	\$7 million
Inheritance tax collections under proposed law.	<u>\$7 million</u>	<u>\$4.55 million</u>
DECREASE INHERITANCE TAX COLLECTIONS	<u>\$0</u>	<u>\$2.45 million</u>

LONG-RANGE EFFECT

The full effect of the proposed legislation will not be felt until 1980 and subsequent years. Beginning in FY 1980 inheritance tax collections will be reduced by 70%.

TECHNICAL NOTE

Section 91-4144 subsection 6. Subsection 6 creates a geometric rate of increase for the amount of the exemptions. In 24 years the amount of the exemptions will be doubled, in 48 years they will be quadrupled, in 72 years they will have been multiplied by 8, etc.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. ...
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-77