

1 SENATE BILL NO. 25
 2 INTRODUCED BY MATHERS
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE
 5 INHERITANCE TAX WITH AN ESTATE TAX BASED UPON THE STATE
 6 CREDIT ALLOWED IN THE FEDERAL ESTATE TAX; PROVIDING A
 7 DELAYED EFFECTIVE DATE; AND REPEALING CHAPTER 44 OF TITLE
 8 91."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Short title. This act may be cited as the
 12 Montana Estate Tax Act.
 13 Section 2. Intent. The intent of this chapter is to
 14 provide a method of tax relief while allowing this state to
 15 collect the maximum tax credit against the federal estate
 16 tax imposed with respect to a decedent's estate.
 17 Section 3. Imposition of estate tax. There is an
 18 estate tax imposed upon the transfer of the estate of every
 19 decedent leaving an estate subject to the federal estate tax
 20 imposed by the United States that, in whole or in part, has
 21 a taxable situs in this state.
 22 Section 4. Taxable situs. For purposes of this tax,
 23 property located within the state of Montana or its
 24 jurisdiction and intangible property possessed by a resident
 25 of this state are subject to the estate tax.

1 Section 5. Amount of tax. The estate tax imposed upon
 2 each estate is equal to the maximum tax credit allowable for
 3 state death taxes against the federal estate tax imposed
 4 with respect to the portion of the decedent's estate having
 5 a taxable situs in this state.
 6 Section 6. Who collects. The estate tax shall be
 7 collected by the several county treasurers or the department
 8 of revenue for deposit with the state treasurer in the state
 9 general fund.
 10 Section 7. When payable. The estate tax is payable to
 11 the county treasurer of the county in which the personal
 12 representative of the estate is appointed or to the
 13 department of revenue at the same time or times at which the
 14 United States tax is payable and shall bear interest, if
 15 any, at the same rate and for the same period as the United
 16 States tax.
 17 Section 8. Liability. Personal representatives,
 18 trustees, and grantees under a conveyance made during the
 19 grantor's life and taxable hereunder are liable for estate
 20 taxes, with interest, until those taxes have been paid.
 21 Section 9. Lien. Estate taxes and interest are a lien
 22 on the property for a period of 10 years from the date of
 23 death, unless sooner paid.
 24 Section 10. Filing returns -- general -- supervised
 25 administration -- unsupervised administration. (1) When the

1 possibility exists that the estate of a decedent is liable
 2 for payment of death taxes under the United States estate
 3 tax laws, the personal representative shall file with the
 4 district court of the county in which the estate would be
 5 administered and with the department of revenue the
 6 following:

7 (a) duplicates of the United States estate tax
 8 returns; and

9 (b) a certificate or other evidence from the internal
 10 revenue service or its successor indicating the amount of
 11 the United States estate tax as computed by that agency.

12 (2) In supervised administration of an estate, the
 13 district court shall hear all parties desiring to be heard
 14 with respect to the amount of state estate tax and shall
 15 enter an order determining that tax and the amount thereof
 16 so due and payable.

17 (3) In other than supervised administration of an
 18 estate, the personal representative shall file with the
 19 department of revenue the documents listed in subsection (1)
 20 of this section and any other pertinent information
 21 necessary to establish the amount of the state estate tax.
 22 If there is no personal representative, the person in
 23 control of property subject to estate tax shall file the
 24 documents required of the personal representative.

25 Section 11. Credit for tax paid another state. The

1 amount of tax due under this act shall be credited with the
 2 lesser of the amount of the death tax paid another state and
 3 credited against the federal estate tax or a pro rata share
 4 of the credit allowed the several states by federal estate
 5 tax law, when the following conditions apply with regard to
 6 a decedent's property:

7 (1) it has a taxable situs in Montana;

8 (2) a death tax is levied upon it in another state for
 9 which a credit is allowed by federal estate tax law; and

10 (3) there is no provision in the taxing state that
 11 allows the property to be taxed in the state of decedent's
 12 domicile.

13 Section 12. Repealer. Sections 91-4401 through 91-4467
 14 are repealed.

15 Section 13. Effective date and applicability. This act
 16 is effective on July 1, 1978, and applies to the estate of
 17 any person who dies on or after that date.

-End-

STATE OF MONTANA

REQUEST NO. 1-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, 1977, there is hereby submitted a Fiscal Note for Senate Bill 25 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 replace the inheritance tax with an estate tax based upon the state credit allowed in the federal estate tax.

ASSUMPTIONS:

1. Federal estate tax is due nine months after death and the effect of the proposed legislation will begin to manifest itself after March 31, 1979.
2. The maximum federal credit will remain constant throughout the biennium.
3. Collections under the current inheritance tax law will be \$7 million during each year of the biennium.
4. The reduction in collections for a full year if the proposed bill were enacted would range between 78% and 83% (historical data - Inheritance Tax Division, Department of Revenue).
5. Inheritance tax collections are homogenous, i.e., 1/12 of each year's revenue is collected in a given month.

REVENUE 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>\$5.5 - 5.63 million</u>
Decrease in inheritance tax collections	<u>\$-0-</u>	<u>\$1.37 - \$1.45 million</u>

LOCAL IMPACT

Negligible

LONG RANGE IMPACT

By FY '80 and in all subsequent years, inheritance tax collections will drop to a point approximately 20% of the level under current law.

Richard L. ...
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 1-10-77