

1 SENATE BILL NO. 31
 2 INTRODUCED BY WATT

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE
 5 RECOMMENDATIONS OF THE INTERIM SUBCOMMITTEE ON TAXATION,
 6 REVISING AND UPDATING THE MONTANA INHERITANCE TAX WITH
 7 REGARD TO JOINT ESTATES AND EXEMPTIONS; AMENDING SECTIONS
 8 91-4405, 91-4409, 91-4410, 91-4414, 91-4416, 91-4419, AND
 9 91-4453, R.C.M. 1947."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 91-4405, R.C.M. 1947, is amended to
 13 read as follows:

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

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

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

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

1 association, corporation, or political entity by the
2 decedent. A tax is imposed upon the first \$25,000 in value
3 of the remaining amount of the total value of property or
4 beneficial interests at the following rates:

5 (1) ~~Two-per-cent~~ Where at the rate of 2% 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:

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

11 (b) any child adopted as such in conformity with law
12 or any child to whom such decedent for not less than ten
13 (10) years prior to such transfer stood in the mutually
14 acknowledged relation of a parent, provided, however, such
15 relationship began at or before the child's fifteenth (15)
16 15th birthday, and was continuous for ten (10) years; or

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

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

25 (a) the brother or sister or a descendant of a brother

1 or sister of the decedent;

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

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

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

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

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

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

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

1 "91-4410. Other rates, where remaining amount in
 2 excess of \$25,000~~00~~. The foregoing rates in section 91-4409
 3 are for convenience termed the primary rates~~;~~. When the
 4 amount of the clear value of such the remaining amount of
 5 the property or interests exceeds ~~twenty-five--thousand~~
 6 ~~dollars--(\$25,000~~00~~)~~, the rates rate of tax upon such excess
 7 shall be as follows:

8 (1) ~~Rate--where--amount--\$25,000~~00~~--to--\$50,000~~00~~--Upon~~
 9 ~~upon~~ all in excess of ~~twenty-five--thousand--dollars~~
 10 ~~{\$25,000~~00~~}~~, and up to ~~fifty-thousand-dollars--(\$50,000~~00~~)~~,
 11 two {2} times the primary rates rate;

12 (2) ~~Rate--where--amount--\$50,000~~00~~--to--\$100,000~~00~~--Upon~~
 13 ~~upon~~ all in excess of ~~fifty-thousand-dollars--(\$50,000~~00~~)~~
 14 and up to ~~one-hundred-thousand-dollars--(\$100,000~~00~~)~~, three
 15 {3} times the primary rates rate;

16 (3) ~~Rate--where--amount--over--\$100,000~~00~~--Upon~~ ~~upon~~ all
 17 in excess of ~~one--hundred--thousand--dollars--(\$100,000~~00~~)~~,
 18 four {4} times the primary rates rate."

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

21 "91-4414. Exemptions~~;~~ ~~from--first--\$25,000~~00~~--The~~
 22 ~~following--exemptions--from--the--tax--are--hereby--allowed--the~~
 23 ii The exemption allowed to each person, institution,
 24 association, corporation, and or body politic to shall be
 25 ~~taken out-of-the-first-twenty-five-thousand-dollars--passing~~

1 by--any--such--transfer--to--such--person~~y~~--institution~~y~~
 2 association~~y~~--corporation--or--body--politic as provided in
 3 91-4409~~00~~.

4 {1} (2) ~~Transfers~~ The following transfers are totally
 5 exempt~~;~~:

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

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

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

25 (ii) The the property transferred is limited for

1 use within this state;

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

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

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

1 country;

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

9 ~~(3) The clear value of one-half of the property~~
10 ~~distributed or passing to decedent's surviving spouse is~~
11 ~~exempt.~~

12 ~~(2) (4) \$25,000; \$5,000; \$2,000 exempt when Property~~
13 ~~of the clear value of twenty-five thousand dollars (\$25,000)~~
14 The following amounts are exempt:

15 (a) property of the clear value of \$40,000 transferred
16 to the wife--or--to--the--husband surviving spouse of the
17 decedent; five thousand dollars (\$5,000)

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

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

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

23 (iii) any minor child to whom such decedent for not
24 less than ten-(10) years prior to such transfer stood in the
25 mutually acknowledged relation of a parent, provided

1 ~~however~~ such relationship began at or before the child's
2 ~~fifteenth--(15) 15th~~ birthday, and was continuous for ~~ten~~
3 ~~(10) years~~; or

4 ~~(iv) any minor lineal issue of such adopted or mutually~~
5 ~~acknowledged child~~; and ~~two-thousand-dollars-(2,000)~~

6 ~~(c) property of the clear value of \$7,000~~ transferred
7 to each of the lineal issue who have attained majority and
8 to each of the other persons who have attained majority
9 described in ~~the--first--subdivision-of-section 91-4409(1)~~
10 ~~shall-be-exempt.~~

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

18 ~~(3) (6) \$500-exempt-when~~ Property of the clear value
19 of ~~five--hundred--dollars \$1,000~~ transferred to each of the
20 persons described in ~~the--second--subdivision--of--section~~
21 ~~91-4409(2) shall-be is~~ exempt.

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

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

9 Section 5. Section 91-4416, R.C.M. 1947, is amended to
10 read as follows:

11 "91-4416. Discount -- interest. (1) If ~~such the~~ tax is
12 paid within ~~eighteen-(18) months from-the-accruing-thereof~~
13 ~~of the death of the decedent~~, a discount of ~~five--per--cent~~
14 ~~(5%)~~ shall be ~~allowed-and~~ deducted therefrom. The deduction
15 of this discount of ~~five-per-cent-(5%)~~ shall be accomplished
16 by paying within the ~~eighteen--(18)-month~~ period from the
17 date that the tax accrues an amount equal to ~~ninety-five-per~~
18 ~~cent--(95%)~~ of the total tax declared due by the person
19 making payment.

20 ~~(2) If such tax is not paid within eighteen--(18)~~
21 ~~months from--the--accruing--thereof of the death of the~~
22 ~~decedent~~, interest shall be charged and collected thereon at
23 the rate of ~~ten-per-cent-(10%) per-annum a year~~ from the
24 time the tax accrued, unless ~~by-reason because~~ of claims
25 made upon the estate, necessary litigation, or other

1 unavoidable cause of delay, such ~~the~~ tax shall ~~is~~ not be
 2 determined and paid as herein provided, in which case
 3 interest at the rate of ~~six-per-cent-{6%}~~ shall be charged
 4 upon such tax from the accrual thereof until the cause of
 5 such delay is removed, after which ~~time~~ ten-per-cent-{10%}
 6 shall be charged, ~~provided that--litigation~~ litigation to
 7 defeat the payment of the tax shall ~~not be considered is not~~
 8 necessary litigation. ~~in all cases when~~ when a bond shall be
 9 ~~is~~ given under ~~the provisions of section~~ 91-4419, interest
 10 shall be charged at the rate of ~~six-per-cent-{6%}~~ after ~~one~~
 11 ~~{1}~~ year from the date of death until the date of payment
 12 thereof."

13 Section 6. Section 91-4419, R.C.M. 1947, is amended to
 14 read as follows:

15 "91-4419. Bond for deferred payment of tax. {a} Any
 16 beneficiary of any property charged with a tax under ~~this~~
 17 ~~act~~ 91-4401 through 91-4406 and any executors,
 18 administrators, personal representative and or trustees
 19 trustee thereof of the estate, may elect, within eighteen 18
 20 months from the date of the death of decedent or transfer
 21 thereof ~~as herein provided~~ of the property, not to pay such
 22 tax until the person ~~or--persons~~ beneficially interested
 23 therein ~~shall~~ come comes into the actual possession or
 24 enjoyment thereof. The person ~~or--persons~~ so electing shall
 25 give a bond to the state ~~in a penalty of three times~~ for the

1 amount of ~~any--such~~ the tax, with such sureties as the
 2 district court of the proper county or the ~~state~~ department
 3 of revenue, as the case may be, may approve, conditioned for
 4 the payment of such the tax and interest thereon ~~at such~~
 5 ~~time or--period--as~~ at the time the person ~~or--persons~~
 6 beneficially interested therein ~~may--come~~ comes into the
 7 actual possession or enjoyment of such the property, ~~which~~
 8 The bond shall be filed in the district court, or in the
 9 office of the state treasurer as the case may be. Such bond
 10 must be executed and filed and a full return of such
 11 property upon oath made to the district court ~~or the~~
 12 department of revenue within 18 months from the date of the
 13 death of decedent or transfer as herein provided, and such
 14 bond must be ~~renewed every 5 years, and said deferred tax~~
 15 ~~shall bear interest at 6% per annum--after--such--18--months~~
 16 kept in force until the tax and interest are paid in full."

17 Section 7. Section 91-4453, R.C.M. 1947, is amended to
 18 read as follows:

19 "91-4453. Definitions. {1} The words "estate" and
 20 "property" as used in this act shall be taken to mean the
 21 real and personal property or interest therein passing or
 22 transferred to individual legatees, devisees, heirs, next of
 23 kin, grantees, donees, or vendees, and not as the property
 24 or interest therein of the decedent, grantor, donor, or
 25 vendor, and shall include all personal property within or

1 without the state. The word "transfer" as used in this act
2 shall be taken to include the passing of property or any
3 interest therein, in possession or enjoyment, present or
4 future, by inheritance, descent, devise, succession,
5 bequest, grant, deed, bargain, sale, gift, or appointment in
6 the manner herein prescribed to each individual or
7 corporation. The word "decedent" as used in this act shall
8 include the testator, intestate, grantor, bargainer, vendor,
9 or donor. "Intangible" or "intangible property" when used
10 in this act without other qualifications, shall be taken to
11 include all moneys, stocks, bonds, notes, securities, and
12 credits of all kinds, secured or unsecured. The words
13 "county treasurer", "public administrator" and "county
14 attorney" as used in this act shall be taken to mean the
15 treasurer, public administrator, and county attorney of the
16 county in which the district court has jurisdiction of the
17 proceedings.

18 (2) The terms "joint" and "jointly" as used in this
19 chapter refer to ownership of property by two or more
20 persons having as one of the incidents of such ownership the
21 right of survivorship in the surviving owner or owners upon
22 the death of one of the owners. This definition does not
23 affect the concept of property owned as tenants in common,
24 and this type of ownership shall continue to be recognized
25 where applicable."

-End-

1 excess of \$25,000.00. When the property or any beneficial
 2 interest therein passes by any such transfer to any person,
 3 institution, association, corporation or body politic where
 4 the amount of the property shall exceed in value the
 5 exemption hereinafter specified and shall not exceed in
 6 value twenty-five thousand dollars (\$25,000.00), the tax
 7 hereby imposed shall be The exemptions allowed by 91-4414
 8 shall be subtracted from the total value of property or
 9 beneficial interests transferred to any person, institution,
 10 association, corporation, or political entity by the
 11 decedent. A tax is imposed upon the first \$25,000 in value
 12 of the remaining amount of the total value of property or
 13 beneficial interests at the following rates:

14 (1) Two per cent Where at the rate of 2% of the clear
 15 value of the interest in property passing to a person if the
 16 person or persons entitled to any beneficial interest in
 17 such property shall be is:

18 (a) the husband, wife, lineal issue, or lineal
 19 ancestor of the decedent; or

20 (b) any child adopted as such in conformity with law
 21 or any child to whom such decedent for not less than ten
 22 (10) years prior to such transfer stood in the mutually
 23 acknowledged relation of a parent, provided however such
 24 relationship began at or before the child's fifteenth (15)
 25 15th birthday and was continuous for ten (10) years; or

1 (c) any lineal issue of such adopted or mutually
 2 acknowledged child; at the rate of two per cent (2%) of the
 3 clear value of such interest in such property passing to
 4 such person

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

9 (a) the brother or sister or a descendant of a brother
 10 or sister of the decedent; or

11 (b) a wife of a son or the husband of a daughter of
 12 the decedent; at the rate of four per cent (4%) of the
 13 clear value of such interest in such property passing to
 14 such person

15 (3) Six per cent Where at the rate of 6% of the clear
 16 value of the interest in property passing to a person if the
 17 person or persons entitled to any beneficial interest in
 18 such property shall be is the uncle, aunt or first cousin
 19 of the decedent; at the rate of six per cent (6%) of the
 20 clear value of such interest in such property passing to
 21 such person

22 (4) Eight per cent Where the person or persons at the
 23 rate of 8% of the clear value of the interest in property
 24 passing if the entity entitled to any beneficial interest in
 25 such property shall be is:

1 (a) a person in any other degree of collateral
2 consanguinity than is hereinbefore stated; ~~or shall be~~

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

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

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

10 "91-4410. Other rates, where remaining amount in
11 excess of \$25,000.00. The foregoing rates in section 91-4409
12 are for convenience termed the primary rates. When the
13 amount of the clear value of such the remaining amount of
14 the property or interests exceeds twenty-five thousand
15 dollars (\$25,000.00), the rates rate of tax upon such excess
16 shall be as follows:

17 (1) ~~Rate where amount \$25,000.00 to \$50,000.00~~ Upon
18 upon all in excess of twenty-five thousand dollars
19 (\$25,000.00) and up to fifty thousand dollars (\$50,000.00),
20 two (2) times the primary rates rate;

21 (2) ~~Rate where amount \$50,000.00 to \$100,000.00~~ Upon
22 upon all in excess of fifty thousand dollars (\$50,000.00)
23 and up to one hundred thousand dollars (\$100,000.00), three
24 (3) times the primary rates rate;

25 (3) ~~Rate where amount over \$100,000.00~~ Upon upon all

1 in excess of one hundred thousand dollars (\$100,000.00),
2 four (4) times the primary rates rate."

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

5 "91-4414. Exemptions from first \$25,000. The following
6 exemptions from the tax are hereby allowed; the (1) The
7 exemption allowed to each person, institution, association,
8 corporation, and or body politic to shall be taken out of
9 the first twenty-five thousand dollars passing by any such
10 transfer to such person, institution, association,
11 corporation or body politic as provided in 91-4409.

12 (1) (2) transfers The following transfers are totally
13 exempt:

14 (a) All all property transferred to the state or any
15 of its institutions, or to municipal corporations within the
16 state for strictly county, city, town, or municipal
17 purposes, shall be exempt;

18 (b) All all property transferred to any society,
19 corporation, institution, or association, in trust or
20 otherwise, or to any foundation or trust, organized and
21 operated exclusively for religious, charitable, scientific,
22 literary, or educational purposes, no part of the net
23 earnings of which inures to the benefit of any private
24 stockholder or individual, and no substantial part of the
25 activities of which is carrying on propaganda or otherwise

1 attempting to influence legislation, ~~shall be exempt~~, if any
2 of the following conditions is present:

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

8 ~~(b) (ii) The the~~ property transferred is limited for
9 use within this state;

10 ~~(c) (iii) in the event that~~ the society, corporation,
11 institution, foundation, trust, or association is organized
12 or existing under the laws of another state of the United
13 States or of a foreign state or country, ~~and~~ at the date of
14 the decedent's death any one of the following conditions
15 existed:

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

22 ~~(ii) (B) The the~~ laws of the other state, foreign
23 state, or foreign country contained a reciprocal provision
24 under which property transferred to a similar society,
25 institution, foundation, trust, or association organized or

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

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

17 ~~(2) The clear value of one-half of the property~~
18 ~~distributed or passing to decedent's surviving spouse is~~
19 ~~exempt.~~

20 ~~(2) (4) \$25,000+-\$5,000+-\$2,000 exempt when Property~~
21 ~~of the clear value of twenty-five thousand dollars-(\$25,000)~~
22 ~~The following amounts are exempt:~~

23 ~~(a) property of the clear value of \$40,000~~ transferred
24 to the ~~wife or to the husband~~ surviving spouse of the
25 decedent; ~~five thousand dollars-(\$5,000)~~

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

3 (i) each minor lineal issue of the decedent; or
4 (ii) any minor child adopted as such in conformity with
5 law; or

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

12 (iv) any minor lineal issue of such adopted or mutually
13 acknowledged child; and ~~two thousand dollars~~ two thousand dollars

14 (c) property of the clear value of \$7,000 transferred
15 to each of the lineal issue who have attained majority and
16 to each of the other persons who have attained majority
17 described in ~~the first subdivision of section~~ 91-4409 (1)
18 ~~shall be exempt.~~

19 (5) Any child of the a decedent ~~shall be~~ is entitled
20 to credit for so much of the tax paid by ~~the wife or husband~~
21 the decedent's spouse as applied to any property which ~~shall~~
22 is thereafter be transferred by or from such ~~husband or wife~~
23 spouse to any such ~~the~~ child, provided the ~~husband or wife~~
24 spouse does not survive ~~said the~~ decedent to exceed ~~ten~~ ten
25 years.

1 ~~(3)~~ (6) ~~\$500-exempt when~~ Property of the clear value
2 of ~~five hundred dollars~~ \$1,000 transferred to each of the
3 persons described in ~~the second subdivision of section~~
4 91-4409 (2) ~~shall be~~ is exempt.

5 ~~(4)~~ (7) ~~Property without the state exempt when~~ No
6 tax ~~shall~~ may be imposed upon any tangible personal property
7 of a resident decedent when such property is located without
8 this state, and when the transfer of such property is
9 subject to an inheritance or transfer tax in the state where
10 located and which ~~the~~ tax has actually been paid, secured,
11 or guaranteed, provided such property is not without this
12 state temporarily ~~nor~~ or for the sole purpose of deposit or
13 safekeeping, and provided the laws of the state where such
14 property is located allow a like exemption in relation to
15 such property left by a resident of that state and located
16 in this state."

17 Section 5. Section 91-4416, R.C.M. 1947, is amended to
18 read as follows:

19 "91-4416. Discount -- interest. (1) If such ~~the~~ tax is
20 paid within ~~eighteen~~ eighteen months from ~~the accruing thereof~~
21 of the death of the decedent, a discount of ~~five per cent~~
22 five per cent shall be ~~allowed and~~ deducted therefrom. The deduction
23 of this discount of ~~five per cent~~ five per cent shall be accomplished
24 by paying within the ~~eighteen~~ eighteen month period from the
25 date that the tax accrues an amount equal to ~~ninety five per~~

1 cent-(95%) of the total tax declared due by the person
2 making payment.

3 (2) If such tax is not paid within eighteen-(18)
4 months from--the--accruing--thereof of the death of the
5 decedent, interest shall be charged and collected thereon at
6 the rate of ten--per-cent-(10%) per-annum a year from the
7 time the tax accrued; unless by--reason because of claims
8 made upon the estate, necessary litigation, or other
9 unavoidable cause of delay, such the tax shall is not be
10 determined and paid as herein provided, in which case
11 interest at the rate of six-per-cent-(6%) shall be charged
12 upon such tax from the accrual thereof until the cause of
13 such delay is removed, after which time ten-per--cent--(10%)
14 shall be charged; provided that litigation litigation to
15 defeat the payment of the tax shall not be considered is not
16 necessary litigation. in--all--cases--when when a--bond
17 PERMISSION shall--be is given HAS BEEN GRANTED TO DEFER
18 PAYMENT OF TAX under the--provisions--of--section 91-4419,
19 interest shall be charged at the rate of six-per-cent-(6%)
20 after one-(1) year from the date of death, until the date of
21 payment thereof."

22 Section 6. Section 91-4419, R.C.M. 1947, is amended to
23 read as follows:

24 "91-4419. Bond PERMISSION for deferred payment of tax.
25 (a) Any beneficiary of any property charged with a tax under

1 this--act 91-4401 through 91-4406v and any executors,
2 administrators personal representative and or trustees
3 trustee thereof of the estate, may elect REQUEST, within
4 eighteen 18 months from the date of the death of decedent or
5 transfer thereof--as--herein--provided of the property,
6 PERMISSION not to pay such tax OR A PORTION THEREOF until
7 the person or persons beneficially interested therein--shall
8 come comes into the actual possession or enjoyment thereof,
9 OR UNTIL PAYMENT CAN BE MADE WITHOUT LIQUIDATING A PORTION
10 OF THE CAPITAL ASSETS. THE DEPARTMENT MAY PERMIT THE
11 DEFERRAL OF PAYMENT FOR NOT MORE THAN 5 YEARS, UPON SUCH
12 CONDITIONS AND TERMS AS THE DEPARTMENT CONSIDERS NECESSARY
13 TO ASSURE PAYMENT. The person or persons so electing shall
14 give a bond to the state in a penalty of three times for the
15 amount of any such the tax, with such sureties as the
16 district court of the proper county or the state department
17 of revenue, as the case may be, may approve, conditioned for
18 the payment of such the tax and interest thereon, at such
19 time or period as at the time the person or persons
20 beneficially interested therein may come comes into the
21 actual possession or enjoyment of such the property, which
22 the bond shall be filed in the district court or in the
23 office of the state treasurer as the case may be. Such bond
24 must be executed and filed and a full return of such
25 property upon oath made to the district court or the

~~1 department of revenue within 18 months from the date of the~~
~~2 death of decedent or transfer as herein provided, and such~~
~~3 bond must be renewed every 5 years, and said deferred tax~~
~~4 shall bear interest at 6% per annum after such 18 months~~
~~5 kept in force until the tax and interest are paid in full.~~

6 Section 7. Section 91-4453, R.C.M. 1947, is amended to
 7 read as follows:

8 "91-4453. Definitions. (1) The words "estate" and
 9 "property" as used in this act shall be taken to mean the
 10 real and personal property or interest therein passing or
 11 transferred to individual legatees, devisees, heirs, next of
 12 kin, grantees, donees, or vendees, and not as the property
 13 or interest therein of the decedent, grantor, donor, or
 14 vendor, and shall include all personal property within or
 15 without the state. The word "transfer" as used in this act
 16 shall be taken to include the passing of property or any
 17 interest therein, in possession or enjoyment, present or
 18 future, by inheritance, descent, devise, succession,
 19 bequest, grant, deed, bargain, sale, gift, or appointment in
 20 the manner herein prescribed to each individual or
 21 corporation. The word "decedent" as used in this act shall
 22 include the testator, intestate, grantor, bargainor, vendor,
 23 or donor. "Intangible" or "intangible property", when used
 24 in this act without other qualifications, shall be taken to
 25 include all moneys, stocks, bonds, notes, securities, and

1 credits of all kinds, secured or unsecured. The words
 2 "county treasurer", "public administrator", and "county
 3 attorney" as used in this act shall be taken to mean the
 4 treasurer, public administrator, and county attorney of the
 5 county in which the district court has jurisdiction of the
 6 proceedings.

7 ~~(2) The terms "joint" and "jointly" as used in this~~
~~8 chapter refer to ownership of property by two or more~~
~~9 persons having as one of the incidents of such ownership the~~
~~10 right of survivorship in the surviving owner or owners upon~~
~~11 the death of one of the owners. This definition does not~~
~~12 affect the concept of property owned as tenants in common,~~
~~13 and this type of ownership shall continue to be recognized~~
~~14 where applicable.~~

15 ~~SECTION 8. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON~~
 16 ~~PASSAGE AND APPROVAL.~~

-End-

STATE OF MONTANA

REQUEST NO. 2-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 31 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:

Senate Bill 31 is an act to revise and update the Montana Inheritance tax with regard to joint estates and exemptions.

ASSUMPTIONS:

1. The effects of the proposed legislation will not be felt for eighteen (18) months, the period between death and due date of Inheritance Taxes.
2. Collections under current law would be \$7 million in each of the next two fiscal years.
3. Inheritance tax collections are homogenous - 1/12 of the revenue will be collected each month.
4. The full effect of the proposed legislation will be to reduce inheritance tax collections by 27% and 33% annually.
5. There will be no change in administrative costs.

REVENUE IMPACT:

	FY '78	FY '79
Inheritance tax under current law	\$7 million	\$7 million
Inheritance tax under proposed law	<u>\$7 million</u>	<u>\$5.845 - \$6.055 million</u>
Decrease in inheritance collections	<u>\$ -0-</u>	<u>\$.945 - \$1.155 million</u>

LOCAL IMPACT:

None

LONG RANGE IMPACT:

The full effect of the proposed legislation will not be felt until FY '80 and all subsequent years when collections will be reduced by approximately 27% - 33% under what they would be under current law.

Richard L. Drury
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-77

STATE OF MONTANA

REQUEST NO. 2-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, 19 77, there is hereby submitted a Fiscal Note for Amended Senate Bill 31 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

Senate bill 31 is an act to revise and update the Montana Inheritance tax with regard to joint estates and exemptions.

ASSUMPTIONS

1. The effects 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 \$7M in each of the next two fiscal years.
3. Inheritance tax collections are homogeneous - 1/12 of the revenue collected each month.
4. The full effect of the proposed legislation will be to reduce inheritance tax collections by between 45% to 55% annually.
5. There will be no change in administrative costs.

REVENUE IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Inheritance Tax under current law	\$7 million	\$7 million
Inheritance Tax under proposed law	<u>\$7 million</u>	<u>\$5.425-\$5.075 million</u>
DECREASE in inheritance tax	<u>\$ -0-</u>	<u>\$1.575-\$1.925 million</u>

LOCAL IMPACT

NONE

LONG-RANGE IMPACT

The full effect will not be felt until FY 80 and subsequent years when collections will be reduced by 45%-55% under what they would be under the current law.

PREPARED BY: Department of Revenue

Richard D. Deering
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-13-77

Approved by Committee
on Taxation

SENATE BILL NO. 31

INTRODUCED BY COMMITTEE ON TAXATION, MATHERS, CHAIRMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE
RECOMMENDATIONS OF THE INTERIM SUBCOMMITTEE ON TAXATION,
REVISING AND UPDATING THE MONTANA INHERITANCE TAX WITH
REGARD TO JOINT ESTATES AND EXEMPTIONS; AMENDING SECTIONS
91-4405, 91-4409, 91-4410, 91-4414, 91-4416, 91-4419, AND
91-4453, R.C.M. 1947."

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

~~Section 1. Section 91-4405, R.C.M. 1947, is amended to
read as follows:~~

~~"91-4405. Joint estates, government bonds, tenants by
the entirety, joint bank accounts, and similarly held
property. Whenever any property, however acquired, real or
personal, tangible or intangible, including government bonds
of the United States, is inscribed in co ownership
ownership form, or held by two or more persons in joint
tenancy by two or more persons, or as tenants by the
entirety, or is deposited in any bank or other depository in
the joint names of two or more persons and payable to the
survivor or survivors of them upon the death of one of them,
the right of the survivor or survivors to the immediate
possession or ownership is a taxable transfer. The tax is~~

~~upon the transfer of decedent's interest, one-half or other
proper fraction, as evidenced by the written instrument
creating the same, as though the property to which the
transfer relates belonged to the joint tenants, tenants by
the entirety, joint depositors, holders in co ownership
form, or persons, as tenants in common, and had been, for
inheritance tax purposes, bequeathed or devised to the
survivor or survivors by will, except such part thereof as
may be shown to have originally belonged to the survivor and
never to have belonged to the decedent. the full value of
the property, except that portion originally owned by the
survivor. This section shall not be construed to repeal or
modify the provisions of section 91-4403."~~

Section 1. Section 91-4409, R.C.M. 1947, is amended to
read as follows:

"91-4409. Primary rates, where remaining amount not in
excess of \$25,000.00. ~~When the property or any beneficial
interest therein passes by any such transfer to any person,
institution, association, corporation or body politic, where
the amount of the property shall exceed in value the
exemption hereinafter specified, and shall not exceed in
value twenty five thousand dollars (\$25,000.00), the tax
hereby imposed shall be:~~ The exemptions allowed by 91-4414
shall be subtracted from the total value of property or
beneficial interests transferred to any person, institution,

1 association, corporation, or political entity by the
2 decedent. A tax is imposed upon the first \$25,000 in value
3 of the remaining amount of the total value of property or
4 beneficial interests at the following rates:

5 (1) ~~Two per cent, where at the rate of 2% 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:

9 (a) the husband, wife, lineal issue, or lineal
10 ancestor of the decedent, ~~or~~

11 (b) any child adopted as such in conformity with law,
12 or any child to whom such decedent for not less than ~~ten~~
13 ~~(10)~~ years prior to such transfer stood in the mutually
14 acknowledged relation of a parent, provided, ~~however,~~ such
15 relationship began at or before the child's ~~fifteenth (15)~~
16 15th birthday, and was continuous for ~~ten (10)~~ years, ~~or~~

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

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

25 (a) the brother or sister or a descendant of a brother

1 or sister of the decedent, ~~;~~

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

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

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

17 (a) a person in any other degree of collateral
18 consanguinity than is hereinbefore stated, ~~or shall be~~

19 (b) is a stranger in blood to the decedent, ~~or~~

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

24 Section 2. Section 91-4410, R.C.M. 1947, is amended to
25 read as follows:

1 "91-4410. Other rates, where remaining amount in
 2 excess of \$25,000.00. The ~~foregoing~~ rates in section 91-4409
 3 are for convenience termed the primary rates. When the
 4 amount of the clear value of ~~such~~ the remaining amount of
 5 the property or interests exceeds ~~twenty five thousand~~
 6 ~~dollars~~ ~~(\$25,000.00)~~, the ~~rates~~ rate of tax upon such excess
 7 shall be as follows:

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

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

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

19 Section 3. Section 91-4414, R.C.M. 1947, is amended to
 20 read as follows:

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

1 ~~by any such transfer to such person, institution,~~
 2 ~~association, corporation or body politic as provided in~~
 3 ~~91-4409.~~

4 ~~(1)~~ (2) ~~Transfers~~ The following transfers are totally
 5 exempt;

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

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

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

25 ~~(b)~~ (ii) The the property transferred is limited for

1 use within this state;

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

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

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

1 country;

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

9 (3) The clear value of one-half of the property
10 distributed or passing to decedent's surviving spouse is
11 except.

12 ~~(2) (4) \$25,000; \$5,000; \$2,000 exempt, when. Property~~
13 ~~of the clear value of twenty-five thousand dollars (\$25,000)~~
14 The following amounts are exempt:

15 (a) property of the clear value of \$40,000 transferred
16 to the ~~wife or to the husband~~ surviving spouse of the
17 decedent; ~~five thousand dollars (\$5,000)~~

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

20 (i) each minor lineal issue of the decedent; ~~or;~~

21 (ii) any minor child adopted as such in conformity with
22 law; ~~or;~~

23 (iii) any minor child to whom such decedent for not
24 less than ~~ten~~ (10) years prior to such transfer stood in the
25 mutually acknowledged relation of a parent, provided,

1 ~~however,~~ such relationship began at or before the child's
2 ~~fifteenth~~ ~~(15)~~ 15th birthday, and was continuous for ~~ten~~
3 ~~(10)~~ years; or

4 (iv) any minor lineal issue of such adopted or mutually
5 acknowledged child; and ~~two thousand dollars (\$2,000)~~

6 (c) ~~property of the clear value of \$7,000~~ transferred
7 to each of the lineal issue who have attained majority and
8 to each of the other persons who have attained majority
9 described in ~~the first subdivision of section 91-4409(1)~~
10 ~~shall be exempt.~~

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

18 ~~(3) (6)~~ ~~\$500 exempt, when.~~ Property of the clear value
19 of ~~five hundred dollars \$1,000~~ transferred to each of the
20 persons described in ~~the second subdivision of section~~
21 ~~91-4409(2)~~ shall be ~~is~~ exempt.

22 ~~(4) (7)~~ ~~Property without the state exempt, when.~~ No
23 tax shall ~~may~~ be imposed upon any tangible personal property
24 of a resident decedent when such property is located without
25 this state, and when the transfer of such property is

1 subject to an inheritance or transfer tax in the state where
2 located and ~~which the~~ tax has actually been paid, secured,
3 or guaranteed, provided such property is not without this
4 state temporarily ~~or~~ or for the sole purpose of deposit or
5 safekeeping, and provided the laws of the state where such
6 property is located allow a like exemption in relation to
7 such property left by a resident of that state and located
8 in this state."

9 Section 4. Section 91-4416, R.C.H. 1947, is amended to
10 read as follows:

11 "91-4416. Discount -- interest. (1) If ~~such the~~ tax is
12 paid within ~~eighteen (18)~~ months ~~from the accruing thereof~~
13 ~~of the death of the decedent~~, a discount of ~~five per cent~~
14 ~~(5%)~~ shall be ~~allowed and~~ deducted therefrom. The deduction
15 of this discount of ~~five per cent (5%)~~ shall be accomplished
16 by paying within the ~~eighteen (18)~~ month period from the
17 date that the tax accrues an amount equal to ~~ninety five per~~
18 ~~cent (95%)~~ of the total tax declared due by the person
19 making payment.

20 (2) If such tax is not paid within ~~eighteen (18)~~
21 months ~~from the accruing thereof~~ of the death of the
22 decedent, interest shall be charged and collected thereon at
23 the rate of ~~ten per cent (10%) per annum~~ a year from the
24 time the tax accrued, unless ~~by reason because~~ of claims
25 made upon the estate, necessary litigation, or other

1 unavoidable cause of delay, ~~such the tax shall is~~ not be
 2 determined and paid as herein provided, in which case
 3 interest at the rate of ~~six per cent (6%)~~ shall be charged
 4 upon such tax from the accrual thereof until the cause of
 5 such delay is removed, after which ~~time ten per cent (10%)~~
 6 shall be charged, ~~provided that litigation~~ Litigation to
 7 defeat the payment of the tax ~~shall not be considered is not~~
 8 necessary litigation. ~~In all cases when when~~ a bond shall be
 9 is given under ~~the provisions of section~~ 91-4419, interest
 10 shall be charged at the rate of ~~six per cent (6%)~~ after ~~one~~
 11 ~~(1)~~ year from the date of death, until the date of payment
 12 thereof."

13 Section 5. Section 91-4419, R.C.M. 1947, is amended to
 14 read as follows:

15 "91-4419. ~~Bond~~ PERMISSION for deferred payment of tax.
 16 ~~(a)~~ Any beneficiary of any property charged with a tax under
 17 ~~this act 91-4401 through 91-4406,~~ and any executors,
 18 administrators personal representative and or trustee
 19 trustee thereof of the estate, may elect REQUEST, within
 20 eighteen 18 months from the date of the death of decedent or
 21 transfer thereof ~~as herein provided~~ of the property,
 22 PERMISSION not to pay such tax OR A PORTION THEREOF until
 23 the person ~~or persons~~ beneficially interested therein shall
 24 ~~come comes~~ into the actual possession or enjoyment thereof,
 25 OR UNTIL PAYMENT CAN BE MADE WITHOUT LIQUIDATING A PORTION

1 OF THE CAPITAL ASSETS. THE DEPARTMENT MAY PERMIT THE
 2 DEFERRAL OF PAYMENT FOR NOT MORE THAN 5 YEARS, UNLESS SUCH
 3 CONDITIONS AND TERMS AS THE DEPARTMENT CONSIDERS NECESSARY
 4 TO ASSURE PAYMENT. ~~The person or persons so electing shall~~
 5 ~~give a bond to the state in a penalty of three times for the~~
 6 ~~amount of any such the tax, with such sureties as the~~
 7 ~~district court of the proper county or the state department~~
 8 ~~of revenue, as the case may be, may approve, conditioned for~~
 9 ~~the payment of such the tax and interest thereon, at such~~
 10 ~~time or period as at the time the person or persons~~
 11 ~~beneficially interested therein may come comes into the~~
 12 ~~actual possession or enjoyment of such the property, which~~
 13 ~~The bond shall be filed in the district court, or in the~~
 14 ~~office of the state treasurer as the case may be, such bond~~
 15 ~~must be executed and filed and a full return of such~~
 16 ~~property upon oath made to the district court of the~~
 17 ~~department of revenue within 18 months from the date of the~~
 18 ~~death of decedent or transfer as herein provided, and such~~
 19 ~~bond must be renewed every 5 years, and said deferred tax~~
 20 ~~shall bear interest at 6% per annum after such 18 months~~
 21 ~~kept in force until the tax and interest are paid in full."~~

22 Section 6. Section 91-4453, R.C.M. 1947, is amended to
 23 read as follows:

24 "91-4453. Definitions. (1) The words "estate" and
 25 "property" as used in this act shall be taken to mean the

1 real and personal property or interest therein passing or
 2 transferred to individual legatees, devisees, heirs, next of
 3 kin, grantees, donees, or vendees, and not as the property
 4 or interest therein of the decedent, grantor, donor, or
 5 vendor, and shall include all personal property within or
 6 without the state. The word "transfer" as used in this act
 7 shall be taken to include the passing of property or any
 8 interest therein, in possession or enjoyment, present or
 9 future, by inheritance, descent, devise, succession,
 10 bequest, grant, deed, bargain, sale, gift, or appointment in
 11 the manner herein prescribed to each individual or
 12 corporation. The word "decedent" as used in this act shall
 13 include the testator, intestate, grantor, bargainor, vendor,
 14 or donor. "Intangible" or "intangible property", when used
 15 in this act without other qualifications, shall be taken to
 16 include all moneys, stocks, bonds, notes, securities, and
 17 credits of all kinds, secured or unsecured. The words
 18 "county treasurer", "public administrator", and "county
 19 attorney", as used in this act shall be taken to mean the
 20 treasurer, public administrator, and county attorney of the
 21 county in which the district court has jurisdiction of the
 22 proceedings.

23 (2) The terms "joint" and "jointly" as used in this
 24 chapter refer to ownership of property by two or more
 25 persons having as one of the incidents of such ownership the

1 right of survivorship in the surviving owner or owners upon
 2 the death of one of the owners. This definition does not
 3 affect the concept of property owned as tenants in common,
 4 and this type of ownership shall continue to be recognized
 5 where applicable."

-End-

SENATE BILL NO. 31

INTRODUCED BY COMMITTEE ON TAXATION, MATHERS, CHAIRMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE INTERIM SUBCOMMITTEE ON TAXATION, REVISING AND UPDATING THE MONTANA INHERITANCE TAX WITH REGARD TO JOINT ESTATES AND EXEMPTIONS; AMENDING SECTIONS 91-4405, 91-4409, 91-4410, 91-4414, 91-4416, 91-4419, AND 91-4453, R.C.M. 1947."

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

~~Section 1. Section 91-4405, R.C.M. 1947, is amended to read as follows:~~

~~"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, is inscribed in co ownership or coownership form, or held by two or more persons in joint tenancy by two or more persons, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer. The tax is~~

~~upon the transfer of decedent's interest, one-half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint tenants, tenants by the entirety, joint depositors, holders in co ownership form, or persons, as tenants in common, and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent, the full value of the property, except that portion originally owned by the survivor, this section shall not be construed to repeal or modify the provisions of section 91-4402."~~

Section 1. Section 91-4409, R.C.M. 1947, is amended to read as follows:

"91-4409. Primary rates, where remaining amount not in excess of \$25,000.00. ~~When the property or any beneficial interest therein passes by any such transfer to any person, institution, association, corporation or body politic, where the amount of the property shall exceed in value the exemption hereinafter specified, and shall not exceed in value twenty five thousand dollars (\$25,000.00), the tax hereby imposed shall be:~~ The exemptions allowed by 91-4414 shall be subtracted from the total value of property or beneficial interests transferred to any person, institution,

1 association, corporation, or political entity by the
 2 decedent. A tax is imposed upon the first \$25,000 in value
 3 of the remaining amount of the total value of property or
 4 beneficial interests at the following rates:

5 (1) Two per cent, where at the rate of 2% 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:

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

11 (b) any child adopted as such in conformity with law,
 12 or any child to whom such decedent for not less than ten
 13 (10) years prior to such transfer stood in the mutually
 14 acknowledged relation of a parent, provided, however, such
 15 relationship began at or before the child's fifteenth (15)
 16 15th birthday, and was continuous for ten (10) years, or

17 (c) any lineal issue of such adopted or mutually
 18 acknowledged child, at the rate of two per cent (2%) of the
 19 clear value of such interest in such property passing to
 20 such person.

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

25 (a) the brother or sister or a descendant of a brother

1 or sister of the decedent,;

2 (b) a wife of a son, or the husband of a daughter of
 3 the decedent, at the rate of four per cent (4%) of the
 4 clear value of such interest in such property passing to
 5 such person.

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

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

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

19 (b) is a stranger in blood to the decedent, or

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

24 Section 2. Section 91-4410, R.C.M. 1947, is amended to
 25 read as follows:

1 "91-4410. Other rates, where remaining amount in
 2 excess of \$25,000.00. The foregoing rates in section 91-4409
 3 are for convenience termed the primary rates. When the
 4 amount of the clear value of ~~each~~ the remaining amount of
 5 the property or interests exceeds ~~twenty-five thousand~~
 6 ~~dollars~~ ~~(\$25,000.00)~~, the rates rate of tax upon such excess
 7 shall be as follows:

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

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

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

19 Section 3. Section 91-4414, R.C.M. 1947, is amended to
 20 read as follows:

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

1 ~~by any such transfer to such person, institution,~~
 2 ~~association, corporation or body politic as provided in~~
 3 91-4409.

4 ~~(4)~~ (2) Transfers The following transfers are totally
 5 exempt;

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

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

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

25 ~~(b)~~ (ii) The the property transferred is limited for

1 use within this state;

2 ~~(e)~~ ~~(iii)~~ ~~in the event that~~ the society, corporation,

3 institution, foundation, trust, or association is organized

4 or existing under the laws of another state of the United

5 States or of a foreign state or country, and at the date of

6 the decedent's death any one of the following conditions

7 existed:

8 ~~(i)~~ (A) The the other state, foreign state, or foreign

9 country did not impose a legacy, succession, or death tax of

10 any character in respect to property transferred to a

11 similar society, corporation, institution, foundation,

12 trust, or association organized or existing under the laws

13 of this state;

14 ~~(ii)~~ (B) The the laws of the other state, foreign

15 state, or foreign country contained a reciprocal provision

16 under which property transferred to a similar society,

17 institution, foundation, trust, or association organized or

18 existing under the laws of another state of the United

19 States or foreign state or country was exempt from legacy,

20 succession, or death taxes of every character, if the other

21 state of the United States or foreign state or country

22 allowed a similar exemption in respect to property

23 transferred to a similar society, institution, foundation,

24 trust, or association organized or existing under the laws

25 of another state of the United States or foreign state or

1 country;

2 ~~(iii)~~ (C) The the society, corporation, institution,

3 foundation, trust, or association owns or operates a

4 hospital for crippled children within the United States,

5 primarily practicing orthopedics, to which crippled or

6 afflicted children from the state of Montana are, without

7 discrimination, gratuitously admitted and treated and the

8 property transferred is limited for use at such hospital.

9 (3) The clear value of one-half of the property

10 distributed or passing to decedent's surviving spouse is

11 exempt.

12 ~~(2)~~ (4) ~~\$25,000, \$5,000, \$2,000 exempt, when property~~

13 ~~of the clear value of twenty-five thousand dollars (\$25,000)~~

14 The following amounts are exempt:

15 (a) property of the clear value of \$40,000 transferred

16 to the wife or to the husband surviving spouse of the

17 decedent; five thousand dollars (\$5,000)

18 (b) property of the clear value of \$15,000 transferred

19 to:

20 (i) each minor lineal issue of the decedent, or;

21 (ii) any minor child adopted as such in conformity with

22 law, or;

23 (iii) any minor child to whom such decedent for not

24 less than ten (10) years prior to such transfer stood in the

25 mutually acknowledged relation of a parent, provided,

1 ~~however,~~ such relationship began at or before the child's
2 ~~fifteenth~~ ~~(15)~~ 15th birthday, and was continuous for ~~ten~~
3 ~~(10)~~ years, or

4 (iv) any minor lineal issue of such adopted or mutually
5 acknowledged child, and ~~two thousand dollars (\$2,000)~~

6 (c) property of the clear value of \$7,000 transferred
7 to each of the lineal issue who have attained majority and
8 to each of the other persons who have attained majority
9 described in ~~the first subdivision of section 91-4409(1)~~
10 ~~shall be exempt.~~

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

18 ~~(3)~~ (6) ~~\$500 exempt, when~~ Property of the clear value
19 of ~~five hundred dollars~~ \$1,000 transferred to each of the
20 persons described in ~~the second subdivision of section~~
21 ~~91-4409(2)~~ shall be is exempt.

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

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

9 Section 4. Section 91-4416, R.C.H. 1947, is amended to
10 read as follows:

11 "91-4416. Discount — interest. (1) If ~~such the~~ tax is
12 paid within ~~eighteen~~ ~~(18)~~ months ~~from the accruing thereof~~
13 of the death of the decedent, a discount of ~~five per cent~~
14 ~~(5%)~~ shall be ~~allowed and~~ deducted therefrom. The deduction
15 of this discount of ~~five per cent~~ ~~(5%)~~ shall be accomplished
16 by paying within the ~~eighteen~~ ~~(18)~~ month period from the
17 date that the tax accrues an amount equal to ~~sixty-five per~~
18 ~~cent~~ ~~(95%)~~ of the total tax declared due by the person
19 making payment.

20 (2) If such tax is not paid within ~~eighteen~~ ~~(18)~~
21 months ~~from the accruing thereof~~ of the death of the
22 decedent, interest shall be charged and collected thereon at
23 the rate of ~~ten per cent~~ ~~(10%)~~ ~~per annum~~ a year from the
24 time the tax accrued, unless ~~by reason~~ because of claims
25 made upon the estate, necessary litigation, or other

1 unavoidable cause of delay, ~~such the tax shall is~~ not be
 2 determined and paid as herein provided, in which case
 3 interest at the rate of ~~six per cent (6%)~~ shall be charged
 4 upon such tax from the accrual thereof until the cause of
 5 such delay is removed, after which ~~time ten per cent (10%)~~
 6 shall be charged, ~~provided that litigation~~ litigation to
 7 defeat the payment of the tax ~~shall not be considered is not~~
 8 necessary litigation. ~~In all cases when~~ When a bond shall be
 9 is given under ~~the provisions of section 91-4419,~~ interest
 10 shall be charged at the rate of ~~six per cent (6%)~~ after ~~one~~
 11 ~~(1)~~ year from the date of death, until the date of payment
 12 thereof."

13 Section 5. Section 91-4419, R.C.M. 1947, is amended to
 14 read as follows:

15 "91-4419. Bond PERMISSION for deferred payment of tax.
 16 ~~(a)~~ Any beneficiary of any property charged with a tax under
 17 ~~this act 91-4401 through 91-4406,~~ and any ~~executors,~~
 18 ~~administrators~~ personal representative and or ~~trustees~~
 19 trustee thereof of the estate, may ~~elect~~ REQUEST, within
 20 ~~eighteen 18~~ months from the date of the death of decedent or
 21 transfer ~~thereof as herein provided of the property,~~
 22 PERMISSION not to pay such tax OR A PORTION THEREOF until
 23 the person ~~or persons~~ beneficially interested therein ~~shall~~
 24 ~~come comes~~ into the actual possession or enjoyment thereof,
 25 OR UNTIL PAYMENT CAN BE MADE WITHOUT LIQUIDATING A PORTION

1 OF THE CAPITAL ASSETS. THE DEPARTMENT MAY PERMIT THE
 2 DEFERRAL OF PAYMENT FOR NOT MORE THAN 5 YEARS, UNDER SUCH
 3 CONDITIONS AND TERMS AS THE DEPARTMENT CONSIDERS NECESSARY
 4 TO ASSURE PAYMENT. The person or persons so electing shall
 5 give a bond to the state in a penalty of three times for the
 6 amount of any such the tax, with such sureties as the
 7 district court of the proper county or the state department
 8 of revenue, as the case may be, may approve, conditioned for
 9 the payment of such the tax and interest thereon, at such
 10 time or period as at the time the person or persons
 11 beneficially interested therein may come comes into the
 12 actual possession or enjoyment of such the property, which
 13 The bond shall be filed in the district court, or in the
 14 office of the state treasurer as the case may be. Such bond
 15 must be executed and filed and a full return of such
 16 property upon oath made to the district court of the
 17 department of revenue within 18 months from the date of the
 18 death of decedent or transfer as herein provided, and such
 19 bond must be renewed every 5 years, and said deferred tax
 20 shall bear interest at 6% per annum after such 18 months
 21 kept in force until the tax and interest are paid in full."

22 Section 6. Section 91-4453, R.C.M. 1947, is amended to
 23 read as follows:

24 "91-4453. Definitions. (1) The words "estate" and
 25 "property" as used in this act shall be taken to mean the

1 real and personal property or interest therein passing or
 2 transferred to individual legatees, devisees, heirs, next of
 3 kin, grantees, donees, or vendees, and not as the property
 4 or interest therein of the decedent, grantor, donor, or
 5 vendor, and shall include all personal property within or
 6 without the state. The word "transfer" as used in this act
 7 shall be taken to include the passing of property or any
 8 interest therein, in possession or enjoyment, present or
 9 future, by inheritance, descent, devise, succession,
 10 bequest, grant, deed, bargain, sale, gift, or appointment in
 11 the manner herein prescribed to each individual or
 12 corporation. The word "decedent" as used in this act shall
 13 include the testator, intestate, grantor, bargainer, vendor,
 14 or donor. "Intangible" or "intangible property", when used
 15 in this act without other qualifications, shall be taken to
 16 include all moneys, stocks, bonds, notes, securities, and
 17 credits of all kinds, secured or unsecured. The words
 18 "county treasurer", "public administrator", and "county
 19 attorney", as used in this act shall be taken to mean the
 20 treasurer, public administrator, and county attorney of the
 21 county in which the district court has jurisdiction of the
 22 proceedings.

23 (2) The terms "joint" and "jointly" as used in this
 24 chapter refer to ownership of property by two or more
 25 persons having as one of the incidents of such ownership the

1 right of survivorship in the surviving owner or owners upon
 2 the death of one of the owners. This definition does not
 3 affect the concept of property owned as tenants in common,
 4 and this type of ownership shall continue to be recognized
 5 where applicable."

-End-

APRIL 7, 1977

Amend in the third reading copy as follows:

1. Amend title, line 7.

Following: "EXEMPTIONS;"

Insert: "PROVIDING AN EFFECTIVE DATE;"

2. Amend page 1, section 1, line 13.

Following: line 13

Insert: "Section 1. Section 91-4405, R.C.M. 1947, is amended to read as follows:

"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, is inscribed in co-ownership coownership form, or held by two or more persons in joint tenancy ~~by two or more persons~~, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer. The tax is upon the transfer of ~~decendent's interest, one-half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint tenants, tenants by the entirety, joint depositors, holders in co-ownership form, or persons, as tenants in common, and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent.~~ the full value of the property, except that portion owned by the survivor. ~~This section shall not be construed to repeal or modify the provisions of section 91-4402."~~

Renumber subsequent sections.

3. Amend page 11, section 4, line 8.

Following: "When"

Strike: "a bond"

Insert: "permission"

4. Amend page 11, section 4, line 9.

Following: line 8

Strike: "is given"

Insert: "has been granted to defer payment of tax"

5. Amend page 14, section 6, line 5.

Following: line 5

Insert: "Section 6. Effective date. This act is effective on passage and approval."

AS AMENDED
BE CONCURRED IN

SENATE BILL NO. 31

INTRODUCED BY COMMITTEE ON TAXATION, MATHERS, CHAIRMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE INTERIM SUBCOMMITTEE ON TAXATION, REVISING AND UPDATING THE MONTANA INHERITANCE TAX WITH REGARD TO JOINT ESTATES AND EXEMPTIONS; AMENDING SECTIONS 91-4405, 91-4409, 91-4410, 91-4414, 91-4416, 91-4419, AND 91-4453, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 14 Section 91-4405, R.C.M. 1947, is amended to read as follows:

"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, is inscribed in co-ownership or ownership form, or held by two or more persons in joint tenancy by two or more persons, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer. The tax is

~~upon the transfer of decedent's interest, one half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint tenants, tenants by the entirety, joint depositors, holders in co-ownership form, or persons, as tenants in common and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent, the full value of the property, except that portion originally owned by the survivor. This section shall not be construed to repeal or modify the provisions of section 91-4402."~~

SECTION 14. SECTION 91-4405, R.C.M. 1947, IS AMENDED TO READ AS FOLLOWS:

"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, inscribed in co-ownership form, or held by two or more persons in joint tenancy by two or more persons, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the

1 survivor or survivors to the immediate possession or
 2 ownership is a taxable transfer. The tax is upon the
 3 transfer of decedent's interest, one-half or other proper
 4 fraction, as evidenced by the written instrument creating
 5 the same, as though the property to which the transfer
 6 relates belonged to the joint tenants, tenants by the
 7 entirety, joint depositors, holders in co-ownership form, or
 8 persons, as tenants in common, and had been, for inheritance
 9 tax purposes, bequeathed or devised to the survivor or
 10 survivors by will, except such part thereof as may be shown
 11 to have originally belonged to the survivor and never to
 12 have belonged to the decedent the full value of the
 13 property, except that portion owned by the survivor. This
 14 section shall not be construed to repeat or modify the
 15 provisions of section 91-4402."

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

18 "91-4409. Primary rates, where remaining amount not in
 19 excess of \$25,000.00. When the property or any beneficial
 20 interest therein passes by any such transfer to any person,
 21 institution, association, corporation or body politic, where
 22 the amount of the property shall exceed in value the
 23 exemption hereinafter specified, and shall not exceed in
 24 value twenty-five thousand dollars (\$25,000.00), the tax
 25 hereby imposed shall be The exemptions allowed by 91-4414

1 shall be subtracted from the total value of property or
 2 beneficial interests transferred to any person, institution,
 3 association, corporation, or political entity by the
 4 decedent. A tax is imposed upon the first \$25,000 in value
 5 of the remaining amount of the total value of property or
 6 beneficial interests at the following rates:

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

11 (a) the husband, wife, lineal issue, or lineal
 12 ancestor of the decedent; or

13 (b) any child adopted as such in conformity with law
 14 or any child to whom such decedent for not less than ten
 15 (10) years prior to such transfer stood in the mutually
 16 acknowledged relation of a parent, provided, however, such
 17 relationship began at or before the child's fifteenth (15)
 18 15th birthday, and was continuous for ten (10) years; or

19 (c) any lineal issue of such adopted or mutually
 20 acknowledged child; at the rate of two per cent (2%) of the
 21 clear value of such interest in such property passing to
 22 such person.

23 (2) Four per cent. Where at the rate of 4% of the
 24 clear value of the interest in property passing to a person
 25 if the person or persons entitled to any beneficial interest

1 in such property shall be is

2 (a) the brother or sister or a descendant of a brother
3 or sister of the decedent; i

4 (b) a wife of a son or the husband of a daughter of
5 the decedent; i ~~at the rate of four per cent (4%) of the~~
6 ~~clear value of such interest in such property passing to~~
7 ~~such person;~~

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

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

19 (a) a person in any other degree of collateral
20 consanguinity than is hereinbefore stated; i ~~or shall be~~

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

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

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

3 "91-4410. Other rates, where remaining amount in
4 excess of \$25,000.00. The foregoing rates in section 91-4409
5 are for convenience termed the primary rates. When the
6 amount of the clear value of ~~such~~ the remaining amount of
7 ~~the~~ property or interests exceeds ~~twenty-five thousand~~
8 ~~dollars (\$25,000.00)~~, the rates rate of tax upon such excess
9 shall be as follows:

10 (1) ~~Rate where amount \$25,000.00 to \$50,000.00. Upon~~
11 upon all in excess of ~~twenty-five thousand dollars~~
12 ~~(\$25,000.00)~~ and up to ~~fifty thousand dollars (\$50,000.00)~~,
13 ~~two (2) times the primary rates;~~ rate;

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

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

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

23 "91-4414. Exemptions from ~~first \$25,000.~~ ~~The following~~
24 ~~exemptions from the tax are hereby allowed; the~~ (1) The
25 exemption allowed to each person, institution, association,

1 association, corporation, and ~~or~~ body politic to shall be
 2 taken out of the first twenty five thousand dollars passing
 3 by any such transfer to such person, institution,
 4 association, corporation or body politic as provided in
 5 91-4402+.

6 ~~(+)~~ (2) Transfers The following transfers are totally
 7 exempt;

8 (a) ~~+~~ all property transferred to the state or any
 9 of its institutions, or to municipal corporations within the
 10 state for strictly county, city, town, or municipal
 11 purposes, ~~shall be exempt;~~

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

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

1 States;

2 ~~(+)~~ (ii) The ~~the~~ property transferred is limited for
 3 use within this state;

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

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

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

1 trust, or association organized or existing under the laws
2 of another state of the United States or foreign state or
3 country;

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

11 (3) The clear value of one-half of the property
12 distributed or passing to decedent's surviving spouse is
13 exempt.

14 ~~(2) (4) \$25,000; \$5,000; \$2,000 exempt when Property~~
15 ~~of the clear value of twenty-five thousand dollars (\$25,000)~~
16 The following amounts are exempt:

17 (a) property of the clear value of \$40,000 transferred
18 to the wife or to the husband surviving spouse of the
19 decedent; five thousand dollars (\$5,000)

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

- 22 (i) each minor lineal issue of the decedent; or
- 23 (ii) any minor child adopted as such in conformity with
- 24 law; or
- 25 (iii) any minor child to whom such decedent for not

1 less than ~~ten~~(10) years prior to such transfer stood in the
2 mutually acknowledged relation of a parent, provided,
3 however, such relationship began at or before the child's
4 fifteenth ~~(15)~~ 15th birthday, and was continuous for ~~ten~~
5 ~~(10)~~ years; or

6 (iv) any minor lineal issue of such adopted or mutually
7 acknowledged child; and two thousand dollars (\$2,000)

8 (c) property of the clear value of \$7,000 transferred
9 to each of the lineal issue who have attained majority and
10 to each of the other persons who have attained majority
11 described in the ~~first subdivision of section 91-4409(1)~~
12 ~~shall be exempt.~~

13 ~~(5) Any child of the a decedent shall be is~~ entitled
14 to credit for so much of the tax paid by ~~the wife or husband~~
15 the decedent's spouse as applied to any property which ~~shall~~
16 is thereafter be transferred by or from such husband ~~or wife~~
17 spouse to any such ~~the~~ child, provided the husband ~~or wife~~
18 spouse does not survive said ~~the~~ decedent to exceed ten 10
19 years.

20 ~~(3) (6) \$500 exempt when Property of the clear value~~
21 ~~of five hundred dollars \$1,000~~ transferred to each of the
22 persons described in the ~~second subdivision of section~~
23 ~~91-4409(2) shall be is~~ exempt.

24 ~~(4) (7) Property without the state exempt when No~~
25 tax ~~shall~~ may be imposed upon any tangible personal property

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

11 Section 5. Section 91-4416, R.C.M. 1947, is amended to
 12 read as follows:

13 "91-4416. Discount -- interest. (1) If such ~~the~~ tax is
 14 paid within ~~eighteen (18) months from the accruing thereof~~
 15 of the death of the decedent, a discount of ~~five-per-cent~~
 16 ~~(5%) shall be allowed and deducted therefrom. The deduction~~
 17 ~~of this discount of five-per-cent (5%) shall be accomplished~~
 18 ~~by paying within the eighteen (18)-month period from the~~
 19 ~~date that the tax accrues an amount equal to ninety-five-per~~
 20 ~~cent (95%) of the total tax declared due by the person~~
 21 ~~making payment.~~

22 (2) If such tax is not paid within ~~eighteen (18)~~
 23 ~~months from the accruing thereof~~ of the death of the
 24 decedent, interest shall be charged and collected thereon at
 25 the rate of ~~ten-per-cent (10%) per annum a year~~ from the

1 time the tax accrued, unless by ~~reason~~ because of claims
 2 made upon the estate, necessary litigation, or other
 3 unavoidable cause of delay, ~~such the tax shall is~~ not be
 4 determined and paid as herein provided, in which case
 5 interest at the rate of ~~six-per-cent (6%)~~ shall be charged
 6 upon such tax from the accrual thereof until the cause of
 7 such delay is removed, after which ~~time~~ ten-per-cent (10%)
 8 shall be charged, ~~provided that litigation~~ litigation to
 9 defeat the payment of the tax ~~shall not be considered is not~~
 10 ~~necessary litigation. In all cases when~~ when a bond
 11 PERMISSION ~~shall be is~~ HAS BEEN GRANTED TO DEFER
 12 PAYMENT OF TAX under the ~~provisions of section~~ 91-4419,
 13 interest shall be charged at the rate of ~~six-per-cent (6%)~~
 14 after ~~one (1) year~~ from the date of death until the date of
 15 payment thereof."

16 Section 6. Section 91-4419, R.C.M. 1947, is amended to
 17 read as follows:

18 "91-4419. Bond PERMISSION for deferred payment of tax.
 19 (a) Any beneficiary of any property charged with a tax under
 20 ~~this act 91-4401 through 91-4406~~ and any executors,
 21 administrators, personal representative and ~~or~~ trustees
 22 trustee thereof ~~of the estate~~, may elect REQUEST, within
 23 ~~eighteen (18) months~~ from the date of the death of decedent or
 24 transfer thereof ~~as herein provided of the property~~,
 25 PERMISSION not to pay such tax OR A PORTION THEREOF until

1 the person or persons beneficially interested therein shall
 2 come ~~comes~~ into the actual possession or enjoyment thereof,
 3 OR UNTIL PAYMENT CAN BE MADE WITHOUT LIQUIDATING A PORTION
 4 OF THE CAPITAL ASSETS. THE DEPARTMENT MAY PERMIT THE
 5 DEFERRAL OF PAYMENT FOR NOT MORE THAN 5 YEARS, UPON SUCH
 6 CONDITIONS AND TERMS AS THE DEPARTMENT CONSIDERS NECESSARY
 7 TO ASSURE PAYMENT. The person or persons so electing shall
 8 give a bond to the state in a penalty of three times for the
 9 amount of any such ~~the~~ tax, with such sureties as the
 10 district court of the proper county or the state department
 11 of revenue, as the case may be, may approve, conditioned for
 12 the payment of such ~~the~~ tax and interest thereon, at such
 13 time or period as ~~at the time~~ the person or persons
 14 beneficially interested therein may come ~~comes~~ into the
 15 actual possession or enjoyment of such ~~the~~ property, which
 16 ~~the~~ bond shall be filed in the district court or in the
 17 office of the state treasurer as the case may be. Such bond
 18 must be executed and filed and a full return of such
 19 property upon oath made to the district court ~~or the~~
 20 ~~department of revenue~~ within 18 months from the date of the
 21 death of decedent or transfer as herein provided, and such
 22 bond must be renewed every 5 years, and said deferred tax
 23 shall bear interest at 6% per annum after such 18 months
 24 ~~kept in force until the tax and interest are paid in full."~~

25 Section 7. Section 91-4453, R.C.M. 1947, is amended to

1 read as follows:

2 "91-4453. Definitions. (1) The words "estate" and
 3 "property" as used in this act shall be taken to mean the
 4 real and personal property or interest therein passing or
 5 transferred to individual legatees, devisees, heirs, next of
 6 kin, grantees, donees, or vendees, and not as the property
 7 or interest therein of the decedent, grantor, donor, or
 8 vendor, and shall include all personal property within or
 9 without the state. The word "transfer" as used in this act
 10 shall be taken to include the passing of property or any
 11 interest therein, in possession or enjoyment, present or
 12 future, by inheritance, descent, devise, succession,
 13 bequest, grant, deed, bargain, sale, gift, or appointment in
 14 the manner herein prescribed to each individual or
 15 corporation. The word "decedent" as used in this act shall
 16 include the testator, intestate, grantor, bargainer, vendor,
 17 or donor. "Intangible" or "intangible property" when used
 18 in this act without other qualifications, shall be taken to
 19 include all moneys, stocks, bonds, notes, securities, and
 20 credits of all kinds, secured or unsecured. The words
 21 "county treasurer", "public administrator", and "county
 22 attorney" as used in this act shall be taken to mean the
 23 treasurer, public administrator, and county attorney of the
 24 county in which the district court has jurisdiction of the
 25 proceedings.

1 (2) The terms "joint" and "jointly" as used in this
2 chapter refer to ownership of property by two or more
3 persons having as one of the incidents of such ownership the
4 right of survivorship in the surviving owner or owners upon
5 the death of one of the owners. This definition does not
6 affect the concept of property owned as tenants in common,
7 and this type of ownership shall continue to be recognized
8 where applicable."

9 SECTION 8. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
10 PASSAGE AND APPROVAL.

-End-

SENATE BILL NO. 31

INTRODUCED BY COMMITTEE ON TAXATION, MATHERS, CHAIRMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE INTERIM SUBCOMMITTEE ON TAXATION, REVISING AND UPDATING THE MONTANA INHERITANCE TAX WITH REGARD TO JOINT ESTATES AND EXEMPTIONS; AMENDING SECTIONS 91-4405, 91-4409, 91-4410, 91-4414, 91-4416, 91-4419, AND 91-4453, R.C.M. 1947; ~~AND PROVIDING AN EFFECTIVE DATE.~~"

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

Section ~~1~~ Section 91-4405, R.C.M. 1947, is amended to read as follows:

"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, is inscribed in co-ownership ~~coownership~~ form, or held by two or more persons in joint tenancy by two or more persons, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer. The tax is

~~upon the transfer of decedent's interest, one-half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint tenants, tenants by the entirety, joint depository holders in co-ownership form, or persons, as tenants in common, and had been for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent, the full value of the property, except that portion originally owned by the survivor, if this section shall not be construed to repeal or modify the provisions of section 91-4402."~~

~~SECTION 1. SECTION 91-4405, R.C.M. 1947, IS AMENDED TO READ AS FOLLOWS:~~

"91-4405. Joint estates, government bonds, tenants by the entirety, joint bank accounts, and similarly held property. Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, inscribed in co-ownership form, or held by two or more persons in joint tenancy by two or more persons, or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the

1 survivor--or--survivors--to--the--immediate--possession--or
 2 ownership--is--a--taxable--transfer. The tax is upon the
 3 transfer of decedent's interest, one-half or other proper
 4 fraction, as evidenced by the written instrument creating
 5 the same, as though the property to which the transfer
 6 relates belonged to the joint tenants, tenants by the
 7 entirety, joint depositors, holders in co-ownership form, or
 8 persons, as tenants in common, and had been, for inheritance
 9 tax purposes, bequeathed or devised to the survivor or
 10 survivors by will, except such part thereof as may be shown
 11 to have originally belonged to the survivor and never to
 12 have belonged to the decedent ~~the full value of the~~
 13 ~~property, except that portion owned by the survivor.~~ This
 14 section shall not be construed to repeal or modify the
 15 provisions of section 91-4402."

16 SECTION 1. SECTION 91-4405, R.C.M. 1947, IS AMENDED TO
 17 READ AS FOLLOWS:

18 "91-4405. Joint estates, government bonds, tenants by
 19 the entirety, joint bank accounts, and similarly held
 20 property. Whenever any property, however acquired, real or
 21 personal, tangible or intangible, including government bonds
 22 of the United States, is inscribed in co-ownership form, or
 23 held by two or more persons in joint tenancy ~~by two or more~~
 24 ~~persons,~~ or as tenants by the entirety, or is deposited in
 25 any bank or other depository in the joint names of two or

1 more persons and payable to the survivor or survivors of
 2 them upon the death of one of them, the right of the
 3 survivor or survivors to the immediate possession or
 4 ownership is a taxable transfer. The tax is upon the
 5 transfer of decedent's interest, one-half or other proper
 6 fraction, as evidenced by the written instrument creating
 7 the same, as though the property to which the transfer
 8 relates belonged to the joint tenants, tenants by the
 9 entirety, joint depositors, holders in co-ownership form, or
 10 persons, as tenants in common, and had been, for inheritance
 11 tax purposes, bequeathed or devised to the survivor or
 12 survivors by will, except such part thereof as may be shown
 13 to have originally belonged to the survivor and never to
 14 have belonged to the decedent when the surviving joint
 15 tenant is a spouse of the decedent. In all other cases the
 16 full value of the property shall be taxable except such
 17 portion thereof that originally belonged to the survivor and
 18 as to which the decedent had made no contribution; if the
 19 decedent had made a contribution to the ownership of such
 20 property the amount of such contribution shall be taxable.
 21 This section shall not be construed to repeal or modify the
 22 provisions of section 91-4402."

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

25 "91-4409. Primary rates, where remaining amount not in