

HOUSE BILL 637

IN THE HOUSE

February 7, 1979

Introduced and referred to  
Committee on Taxation.

March 24, 1979

Committee recommend bill do  
not pass.

March 26, 1979

Report adopted.

1 *House* BILL NO. *637*  
 2 INTRODUCED BY *Johnson*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE  
 5 INHERITANCE TAX FOR A SURVIVING SPOUSE; AMENDING SECTIONS  
 6 72-16-313 AND 72-16-321, MCA; REPEALING SECTIONS 72-16-315  
 7 AND 72-16-318, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 72-16-313, MCA, is amended to read:

11 "72-16-313. Exemptions of spouse and other relatives.

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

15 (2) The following amounts are exempt:

16 ~~(a) property of the clear value of \$40,000 transferred~~  
 17 ~~to the surviving spouse of the decedent;~~

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

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

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

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

1 relationship began at or before the child's 15th birthday  
 2 and was continuous for 10 years; or

3 (iv) any minor lineal issue of such adopted or mutually  
 4 acknowledged child; and

5 (c) (i) property of the clear value of \$7,000  
 6 transferred to each of the lineal issue who have attained  
 7 majority and to each of the other persons who have attained  
 8 majority described in 72-16-321(1).

9 (3) Property of the clear value of \$1,000 transferred  
 10 to each of the persons described in 72-16-321(2) is exempt."

11 Section 2. Section 72-16-321, MCA, is amended to read:

12 "72-16-321. Primary rates -- amount remaining after  
 13 exemptions not in excess of twenty-five thousand dollars.

14 The exemptions allowed by 72-16-311 through 72-16-316 shall  
 15 be subtracted from the total value of property or beneficial  
 16 interests transferred to any person, institution,  
 17 association, corporation, or political entity by the  
 18 decedent. A tax is imposed upon the first \$25,000 in value  
 19 of the remaining amount of the total value of property or  
 20 beneficial interests at the following rates:

21 (1) at the rate of 2% of the clear value of the  
 22 interest in property passing to a person if the person  
 23 entitled to any beneficial interest in such property is:

24 (a) the husband, wife, lineal issue, or lineal  
 25 ancestor of the decedent;

1 (b) any child adopted as such in conformity with law  
 2 or any child to whom such decedent for not less than 10  
 3 years prior to such transfer stood in the mutually  
 4 acknowledged relation of a parent, provided such  
 5 relationship began at or before the child's 15th birthday  
 6 and was continuous for 10 years; or

7 (c) any lineal issue of such adopted or mutually  
 8 acknowledged child;

9 (2) at the rate of 4% of the clear value of the  
 10 interest in property passing to a person if the person  
 11 entitled to any beneficial interest in such property is:

12 (a) the brother or sister or a descendant of a brother  
 13 or sister of the decedent;

14 (b) a wife of a son or the husband of a daughter of  
 15 the decedent;

16 (3) at the rate of 6% of the clear value of the  
 17 interest in property passing to a person if the person  
 18 entitled to any beneficial interest in such property is the  
 19 uncle, aunt, or first cousin of the decedent;

20 (4) at the rate of 8% of the clear value of the  
 21 interest in property passing if the entity entitled to any  
 22 beneficial interest in such property is:

23 (a) a person in any other degree of collateral  
 24 consanguinity than is hereinbefore stated;

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

1 (c) a body politic or corporate."

2 Section 3. Repealer. Sections 72-16-315 and 72-16-318,  
 3 MCA, are repealed.

4 Section 4. Effective date. This act is effective on  
 5 passage and approval and applies to taxable transfers of  
 6 decedents dying after December 31, 1978.

-End-

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 12, 19 79, there is hereby submitted a Fiscal Note for House Bill 637 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

This proposed bill eliminates the inheritance tax for a surviving spouse and provides an immediate effective date.

ASSUMPTIONS

- 1) There is an 18 month lag between the time of death and the date inheritance taxes are due. This would mean the impact will be felt only in FY81.
- 2) The impact of this proposal is estimated to be a loss in revenues of \$1.5 M - \$2 M each year.
- 3) The Department of Revenue projections for inheritance tax collections of \$6.167 M in FY80 and \$6.333 M in FY81 are correct.

FISCAL IMPACT

	<u>FY80</u>	<u>FY81</u>
Inheritance Tax Collections		
under current law	No Impact	\$6.333 M
under proposed law	No Impact	\$4.333 M to \$4.833 M
Estimated Decrease	<u>No Impact</u>	<u>(\$1.5 M to \$2.0 M)</u>

FUND INFORMATION

General Fund		
under current law	No Impact	\$6.333 M
under proposed law	No Impact	\$4.333 M to \$4.833 M
Estimated Decrease	<u>No Impact</u>	<u>(\$1.5 M to \$2.0 M)</u>

LONG-RANGE EFFECTS

In the long run this proposal would cause the state to lose in excess of \$2 million each year it is in effect.

TECHNICAL NOTE

There are a few estates whose returns are filed before the 18 month period. Because of the retroactive effective date the Department of Revenue would have to issue refunds to those estates with dates of death after December 31, 1978 that have filed before this proposal becomes effective.

*Richard D. Gray for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/15/79