

CHAPTER NO. 696.

HOUSE BILL NO. 830

INTRODUCED BY BURNETT, JOHNSTON, SCULLY, KROPP,  
KEYSER, LIEN, MARKS, THOFT, IVERSON, HURWITZ,  
ROTH, WYRICK, DONALDSON, SCHULTZ, ERNST, SEVERSON

IN THE HOUSE

February 15, 1979	Introduced and referred to Committee on Taxation.
March 24, 1979	Committee recommend bill do not pass. Report adopted.  Objection raised to adverse committee report. Bill placed on second reading.  Printed and placed on members' desks.
March 26, 1979	Second reading, pass con- sideration.
March 27, 1979	Second reading, do pass.
March 27, 1979	Considered correctly engrossed.  Third reading, passed. Transmitted to second house.

IN THE SENATE

March 27, 1979	Introduced and referred to Committee on Taxation.
April 7, 1979	Committee recommend bill be concurrent in as amended. Report adopted.
April 9, 1979	Second reading, concurred in.
April 11, 1979	Third reading, concurred in as amended.

IN THE HOUSE

April 12, 1979	Returned from second house. Concurred in as amended.
April 13, 1979	Second reading, amendments adopted.
April 16, 1979	Third reading, amendments adopted. Sent to enrolling.  Reported correctly enrolled.

1 *House* BILL NO. *830*  
 2 INTRODUCED BY *BURWETT*  
 3 *Hydrogen Mark Thoff Jason Nemitz Rod*  
 4 *Ward Donaldson Schultz Ernst*  
 5 RELATING TO THE INHERITANCE TAX; EXEMPTING ALL PROPERTY

6 TRANSFERRED TO A SURVIVING SPOUSE; PROVIDING FOR A 15-YEAR  
 7 DEFERRAL OF THE TAX ON THE TRANSFER OF A FAMILY FARM OR  
 8 BUSINESS TO A CHILD AND ALLOWING A CREDIT AGAINST THE  
 9 DEFERRED TAX BASED ON THE NUMBER OF YEARS THE FARM OR  
 10 BUSINESS IS OWNED BY THE CHILD; AMENDING SECTIONS 72-16-313  
 11 AND 72-16-321, MCA; REPEALING SECTIONS 72-16-315 AND  
 12 72-16-318, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

20 (2) The following amounts are exempt:

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

23 ~~(b)(a)~~ property of the clear value of \$15,000  
 24 transferred to:

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

1 (ii) any minor child adopted as such in conformity with  
 2 law;

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

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

10 ~~(a)~~(b) property of the clear value of \$7,000  
 11 transferred to each of the lineal issue who have attained  
 12 majority and to each of the other persons who have attained  
 13 majority described in 72-16-321(1).

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

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

17 "72-16-321. Primary rates -- amount remaining after  
 18 exemptions not in excess of twenty-five thousand dollars.  
 19 The exemptions allowed by 72-16-311 through 72-16-316 shall  
 20 be subtracted from the total value of property or beneficial  
 21 interests transferred to any person, institution,  
 22 association, corporation, or political entity by the  
 23 decedent. A tax is imposed upon the first \$25,000 in value  
 24 of the remaining amount of the total value of property or  
 25 beneficial interests at the following rates:

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

4 (a) the ~~husband~~---~~wife~~, lineal issue, or lineal  
5 ancestor of the decedent;

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

12 (c) any lineal issue of such adopted or mutually  
13 acknowledged child;

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

17 (a) the brother or sister or a descendant of a brother  
18 or sister of the decedent;

19 (b) a wife of a son or the husband of a daughter of  
20 the decedent;

21 (3) at the rate of 6% 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 the  
24 uncle, aunt, or first cousin of the decedent;

25 (4) at the rate of 8% of the clear value of the

1 interest in property passing if the entity entitled to any  
2 beneficial interest in such property is:

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

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

6 (c) a body politic or corporate."

7 NEW SECTION. Section 3. Deferral of tax due on family  
8 farm or business. (1) A child of a decedent may elect to  
9 defer for 15 years after the death of the decedent the  
10 amount of tax due under 72-16-321 and 72-16-322 owed on a  
11 family farm or business.

12 (2) The amount of tax that may be deferred is the  
13 amount that bears the same ratio to the total amount of tax  
14 owed under 72-16-321 and 72-16-322 as the value of the  
15 family farm or business bears to the total value of all  
16 property transferred from the decedent to the child.

17 (3) For the purposes of [sections 3 through 6], the  
18 following definitions apply:

19 (a) "Child" includes a natural child, an adopted  
20 child, or any child to whom the decedent for not less than  
21 10 years prior to the transfer stood in the mutually  
22 acknowledged relation of a parent, provided that the  
23 relationship began at or before the child's 15th birthday.

24 (b) "Family farm or business" means a farm or business  
25 that for at least 5 years prior to the decedent's death was

1 operated by the decedent and from which the decedent derived  
2 over 65% of his income. To qualify as a family farm or  
3 business, an agreement with respect to the property, as  
4 provided for in [section 4], must be filed with the  
5 department of revenue.

6 NEW SECTION. Section 4. Agreement. An election under  
7 [section 3] may be made by filing with the department of  
8 revenue, on forms provided by the department, an agreement  
9 stating the intention of the child to continue the operation  
10 of the farm or business transferred to him by the decedent.

11 NEW SECTION. Section 5. Acceleration of due date for  
12 sale of property. If the child sells or disposes of the  
13 family farm or business in any manner or ceases to operate  
14 the farm or business, the tax deferred under [section 3]  
15 becomes due and must be paid within 90 days of the date of  
16 sale or disposition.

17 NEW SECTION. Section 6. Lien for deferred amount. (1)  
18 The tax deferred under [section 3] is a lien on the property  
19 on which the tax was deferred until the tax has been paid.

20 (2) Notwithstanding the provisions of 72-16-432, a  
21 lien imposed by this section remains a lien for 15 years  
22 unless paid sooner.

23 (3) The person to whom the property is transferred is  
24 personally liable for the tax until paid.

25 NEW SECTION. Section 7. Credit against tax. (1) There

1 is a credit against the amount of tax deferred under  
2 [section 3] as determined in (2) or (3) of this section.

3 (2) If the child dies before the expiration of the  
4 15-year period without having sold or disposed of the  
5 property during his lifetime, the amount of the credit  
6 equals the amount of tax.

7 (3) If the child sells or disposes of the property in  
8 any manner, the amount of credit is determined by  
9 multiplying the total amount of tax deferred by a fraction,  
10 the numerator of which is the number of years the child  
11 owned the family farm or business and the denominator of  
12 which is 15.

13 Section 8. Repealer. Sections 72-16-315 and 72-16-318,  
14 MCA, are repealed.

15 Section 9. Effective date. This act is effective on  
16 passage and approval and applies to transfers of decedents  
17 who died after December 31, 1978.

-End-

HB 830

STATE OF MONTANA

REQUEST NO. 407-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 20, 19 79, there is hereby submitted a Fiscal Note for House Bill 830 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 revises the laws relating to the Inheritance tax; exempting all property transferred to a surviving spouse; providing for a 15-year deferral of the tax on the transfer of a family farm or business to a child and allowing a credit against the deferred tax based on the number of years the farm or business is owned by the child.

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	<u>\$4.333 M to \$4.833 M</u>
Estimated Decrease	<u>No Impact</u>	<u>(\$1.50 M to \$2.0 M)</u>

FUND INFORMATION

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

LONG-RANGE EFFECTS

The loss in the biennium could be significantly greater in the long run because of the tax deferral provisions.

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 L. [Signature]*  
BUDGET DIRECTOR

This bill is essentially the same as H.B. 637, fiscal note request number 313-79. The assumptions and methodology used in calculating the fiscal impact are the same. The difference in the proposals is a provision for tax deferral on family farms or businesses contained in this bill; however, it is not possible to anticipate the fiscal impact of the tax deferral provision.

Date: 2/16/79

Committee on Taxation

Objection Raised to Adverse Committee Report

House BILL NO. 830

INTRODUCED BY BURNETT, Denny, Nepp, Hoff, Neuwirth, Roth, Walden, Schulte, Ernst

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATING TO THE INHERITANCE TAX; EXEMPTING ALL PROPERTY TRANSFERRED TO A SURVIVING SPOUSE; PROVIDING FOR A 15-YEAR DEFERRAL OF THE TAX ON THE TRANSFER OF A FAMILY FARM OR BUSINESS TO A CHILD AND ALLOWING A CREDIT AGAINST THE DEFERRED TAX BASED ON THE NUMBER OF YEARS THE FARM OR BUSINESS IS OWNED BY THE CHILD; AMENDING SECTIONS 72-16-313 AND 72-16-321, MCA; REPEALING SECTIONS 72-16-315 AND 72-16-318, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 72-16-313, MCA, is amended to read: "72-16-313. Exemptions of spouse and other relatives. (1) The clear value of one-half--of--the all property distributed or passing to decedent's surviving spouse is exempt. (2) The following amounts are exempt: (a)--property-of-the-clear-value-of-\$40,000-transferred-to-the-surviving-spouse-of-the-decedent; (b)(a) property of the clear value of \$15,000 transferred to: (i) each minor lineal issue of the decedent;

(ii) any minor child adopted as such in conformity with law; (iii) any minor child to whom such decedent for not less than 10 years prior to such transfer stood in the mutually acknowledged relation of a parent, provided such relationship began at or before the child's 15th birthday and was continuous for 10 years; or (iv) any minor lineal issue of such adopted or mutually acknowledged child; and (c)(b) property of the clear value of \$7,000 transferred to each of the lineal issue who have attained majority and to each of the other persons who have attained majority described in 72-16-321(1). (3) Property of the clear value of \$1,000 transferred to each of the persons described in 72-16-321(2) is exempt." Section 2. Section 72-16-321, MCA, is amended to read: "72-16-321. Primary rates -- amount remaining after exemptions not in excess of twenty-five thousand dollars. The exemptions allowed by 72-16-311 through 72-16-316 shall be subtracted from the total value of property or beneficial interests transferred to any person, institution, association, corporation, or political entity by the decedent. A tax is imposed upon the first \$25,000 in value of the remaining amount of the total value of property or beneficial interests at the following rates:

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

4 (a) the ~~husband~~---~~wife~~ lineal issue or lineal  
5 ancestor of the decedent;

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

12 (c) any lineal issue of such adopted or mutually  
13 acknowledged child;

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

17 (a) the brother or sister or a descendant of a brother  
18 or sister of the decedent;

19 (b) a wife of a son or the husband of a daughter of  
20 the decedent;

21 (3) at the rate of 6% 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 the  
24 uncle, aunt, or first cousin of the decedent;

25 (4) at the rate of 8% of the clear value of the

1 interest in property passing if the entity entitled to any  
2 beneficial interest in such property is:

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13 amount that bears the same ratio to the total amount of tax  
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25 that for at least 5 years prior to the decedent's death was



1 operated by the decedent and from which the decedent derived  
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3 business, an agreement with respect to the property, as  
4 provided for in [section 4], must be filed with the  
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17 who died after December 31, 1978.

-End-

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 INTRODUCED BY *BURNETT*, *Shultz*, *Kepp*  
*Hybrer*, *Mark*, *Thoft*, *Depp*, *Nurwitz*, *Roll*  
*Ward*, *Wakellon*, *Schulte*, *Orms*

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(2) The following amounts are exempt:

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

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

(i) each minor lineal issue of the decedent;

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

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

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

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

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

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

"72-16-321. Primary rates -- amount remaining after exemptions not in excess of twenty-five thousand dollars. The exemptions allowed by 72-16-311 through 72-16-316 shall be subtracted from the total value of property or beneficial interests transferred to any person, institution, association, corporation, or political entity by the decedent. A tax is imposed upon the first \$25,000 in value of the remaining amount of the total value of property or beneficial interests at the following rates:

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12 (c) any lineal issue of such adopted or mutually  
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15 interest in property passing to a person if the person  
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17 (a) the brother or sister or a descendant of a brother  
18 or sister of the decedent;

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20 the decedent;

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HB 830

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19 "72-16-321. Primary rates -- amount remaining after  
20 exemptions not in excess of twenty-five thousand dollars.  
21 The exemptions allowed by 72-16-311 through 72-16-316 shall  
22 be subtracted from the total value of property or beneficial  
23 interests transferred to any person, institution,  
24 association, corporation, or political entity by the  
25 decedent. A tax is imposed upon the first \$25,000 in value

1 of the remaining amount of the total value of property or  
2 beneficial interests at the following rates:

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

6 (a) the ~~husband~~-~~wife~~ lineal issue or lineal  
7 ancestor of the decedent;

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

14 (c) any lineal issue of such adopted or mutually  
15 acknowledged child;

16 (2) at the rate of 4% 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:

19 (a) the brother or sister or a descendant of a brother  
20 or sister of the decedent;

21 (b) a wife of a son or the husband of a daughter of  
22 the decedent;

23 (3) at the rate of 6% of the clear value of the  
24 interest in property passing to a person if the person  
25 entitled to any beneficial interest in such property is the

1 uncle, aunt, or first cousin of the decedent;

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

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

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

8 (c) a body politic or corporate."

9 ~~NEW SECTION. Section 3. Deferral of tax due on family~~  
10 ~~farm or business. (1) A child of a decedent may elect to~~  
11 ~~defer for 15 years after the death of the decedent the~~  
12 ~~amount of tax due under 72-16-321 and 72-16-322 owed on a~~  
13 ~~family farm or business.~~

14 (2) The amount of tax that may be deferred is the  
15 amount that bears the same ratio to the total amount of tax  
16 owed under 72-16-321 and 72-16-322 as the value of the  
17 family farm or business bears to the total value of all  
18 property transferred from the decedent to the child.

19 (3) For the purposes of [sections 3 through 6] the  
20 following definitions apply:

21 (a) "Child" includes a natural child, an adopted  
22 child, or any child to whom the decedent for not less than  
23 10 years prior to the transfer stood in the mutually  
24 acknowledged relation of a parent, provided that the  
25 relationship began at or before the child's 15th birthday.

1 (b) "Family farm or business" means a farm or business  
 2 that for at least 5 years prior to the decedent's death was  
 3 operated by the decedent and from which the decedent derived  
 4 over 65% of his income. To qualify as a family farm or  
 5 business, an agreement with respect to the property as  
 6 provided for in [section 4] must be filed with the  
 7 department of revenue.

8 ~~NEW SECTION~~ Section 4. Agreement. An election under  
 9 [section 3] may be made by filing with the department of  
 10 revenue on forms provided by the department, an agreement  
 11 stating the intention of the child to continue the operation  
 12 of the farm or business transferred to him by the decedent.

13 ~~NEW SECTION~~ Section 5. Acceleration of due date for  
 14 sale of property. If the child sells or disposes of the  
 15 family farm or business in any manner or ceases to operate  
 16 the farm or business, the tax deferred under [section 3]  
 17 becomes due and must be paid within 90 days of the date of  
 18 sale or disposition.

19 ~~NEW SECTION~~ Section 6. Lien for deferred amounts (1)  
 20 The tax deferred under [section 3] is a lien on the property  
 21 on which the tax was deferred until the tax has been paid.

22 (2) Notwithstanding the provisions of 72-16-432, a  
 23 lien imposed by this section remains a lien for 15 years  
 24 unless paid sooner.

25 (3) The person to whom the property is transferred is

1 personally liable for the tax until paid.

2 ~~NEW SECTION~~ Section 7. Credit against tax (1) There  
 3 is a credit against the amount of tax deferred under  
 4 [section 3] as determined in (2) or (3) of this section.

5 (2) If the child dies before the expiration of the  
 6 15-year period without having sold or disposed of the  
 7 property during his lifetime, the amount of the credit  
 8 equals the amount of tax.

9 (3) If the child sells or disposes of the property in  
 10 any manner, the amount of credit is determined by  
 11 multiplying the total amount of tax deferred by a fraction,  
 12 the numerator of which is the number of years the child  
 13 owned the family farm or business and the denominator of  
 14 which is 15.

15 Section 8. Repealer. Sections 72-16-315 and  
 16 72-16-318, MCA, are repealed.

17 Section 3. Effective date. This act is effective on  
 18 passage and approval and applies to transfers of decedents  
 19 who died after December 31, 1978.

-End-

April 7, 1979

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 830, third reading bill, be amended as follows:

1. Title, line 6.

Following: "SPOUSE;"

Strike: the remainder of line 6 through "CHILD;" on line 10

2. Title, line 11.

Following: "MCA;"

Strike: the remainder of line 11 through "MCA;" on line 12

Insert: "AND"

3. Page 4, line 6.

Following: line 6

Strike: sections 3 through 8 in their entirety

Renumber: following section