

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 consideration.
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 concurred 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.

House BILL NO. 830
 INTRODUCED BY *Burnett, Smith, Bell, George, Hyer, Lynn, Marks, Thoft, Larson, Mueller, Roth, Sorenson, Schmitz, Ormsby*

Gu
 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) total 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
 (e) 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:

H B 830

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, 1979, 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	\$4.333 M to \$4.833 M
Estimated Decrease	No Impact	(\$1.50 M to \$2.0 M)

FUND INFORMATION

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

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. Bergman

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/16/79

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.

Committee on Taxation

Objection Raised to
Adverse Committee ReportHouse BILL NO. 830INTRODUCED BY BENNETT John Knopp
Hyde Mark Thof Leeson Neufeld Rob
Wynn Malcolm Schulte TomA 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
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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
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"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:

--property--of--the--clear--value--of--\$40,000--transferred
to--the--surviving--spouse--of--the--decedent--
beneficial 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

beneficial 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
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"72-16-321. Primary rates -- amount remaining after
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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:

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 5], 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
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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.

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

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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-

Shore BILL NO. 830

BILL NO. 890

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 to--property-of-the-clear-value-of-\$48,000-transferred
22 to-the-surviving-spouse-of-the-decedent†

23 ~~the~~ **final** property of the clear value of \$15,000
24 transferred to:

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

(iii) 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

77(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."

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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's lineal issues 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
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 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;

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 24 personally liable for the tax until paid.

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 2 [section 3] as determined in (2) or (3) of this section.
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-End-

HB 830

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(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

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testable 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).

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8 (b) any child adopted as such in conformity with law
 9 or any child to whom such decedent for not less than 10
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 12 relationship began at or before the child's 15th birthday
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14 (c) any lineal issue of such adopted or mutually
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19 (a) the brother or sister or a descendant of a brother
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21 (b) a wife of a son or the husband of a daughter of
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23 (3) at the rate of 6% of the clear value of the
 24 interest in property passing to a person if the person
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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--Deferred-of-tax-due-on-famly
 10 fam-or-business (t) 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 famly-fam-or-business

14 (t2)--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 famly-fam-or-business--bears--to--the--total--value--of--all
 18 property--transferred--from--the--decedent--to--the--child

19 (t3)--For--the--purposes--of--[sections 3 through 6]--the
 20 following--definitions--apply:

21 (t4)--"Child"--includes--a--natural--child--an--adopted
 22 child--or--any--child--to--who--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 ~~fbt~~--"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-a--a--family--farm--or
 5 business--an--agreement--with--respect--to-the-property-as
 6 provided--for--in--[section--4]--must--be--fitted--with--the
 7 department-of-revenue.

8 NEW SECTION--Section-4---Agreement. An-ejection-under
 9 [section-3]--may-be-made-by-fitting--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-dispositions.

19 NEW SECTION--Section-6---lien-for-deferred-amounts ~~fbt~~
 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 ~~personality-tieble-for-the-tax-until-paid~~
 2 NEW SECTION--Section-7---Credit-against-tax ~~fbt~~--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