

House Bill 292

In The House

January 16, 1981	Introduced and referred to Committee on Taxation.
January 20, 1981	Fiscal note requested.
January 26, 1981	Fiscal note returned.
March 20, 1981	Committee recommend bill do not pass. Objection.  Bill printed and placed on members' desks.  Second reading do pass.
March 21, 1981	Considered correctly engrossed.
March 23, 1981	Third reading passed.

In The Senate

March 24, 1981	Introduced and referred to Committee on Taxation.
April 23, 1981	Died in Committee.

1 *Meyer* HOUSE BILL NO. 292  
 2 INTRODUCED BY *Woolley* *Bartelsen* *Schultz* *Fallick*  
 3 *Kropp* *Wirtz* *Hannah* *Winkler* *3* *HAPP*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA  
 5 INHERITANCE TAX AND AMENDING THOSE SECTIONS THAT APPLY TO  
 6 THE ADMINISTRATION OF BOTH THE INHERITANCE TAX AND THE  
 7 ESTATE TAX; AMENDING SECTIONS 15-1-502, 15-1-503, 72-3-631,  
 8 72-3-807, 72-3-1006, 72-3-1104, 72-4-304, 72-14-303,  
 9 72-16-101, 72-16-102, 72-16-201, 72-16-207, 72-16-208,  
 10 72-16-210 THROUGH 72-16-212, 72-16-214, 72-16-215,  
 11 72-16-317, 72-16-431, 72-16-441, 72-16-443, 72-16-452,  
 12 72-16-453, 72-16-455, 72-16-456, 72-16-458, 72-16-459,  
 13 72-16-461, 72-16-465, 72-16-471, 72-16-502 THROUGH  
 14 72-16-504, 72-16-902 THROUGH 72-16-905, 72-16-907, MCA;  
 15 REPEALING SECTIONS 35-21-422, 72-16-202, 72-16-209,  
 16 72-16-213, 72-16-218, 72-16-301 THROUGH 72-16-308, 72-16-311  
 17 THROUGH 72-16-316, 72-16-318, 72-16-319, 72-16-321,  
 18 72-16-322, 72-16-331 THROUGH 72-16-342, 72-16-401 THROUGH  
 19 72-16-403, 72-16-411 THROUGH 72-16-425, 72-16-432 THROUGH  
 20 72-16-440, 72-16-442, 72-16-480, 72-16-491 THROUGH  
 21 72-16-493, 72-16-701 THROUGH 72-16-706, 72-16-801 THROUGH  
 22 72-16-805, AND 72-16-902, MCA; AND PROVIDING FOR AN  
 23 APPLICABILITY DATE."  
 24  
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 15-1-502, MCA, is amended to read:  
 2 "15-1-502. Suspense account for receipts and refunds.  
 3 The department of revenue shall establish a suspense account  
 4 in the state treasury for the purpose of conveniently  
 5 processing receipts and for paying refunds for overpayments  
 6 of ~~inheritance taxes collected by county treasurers and all~~  
 7 other taxes collected by the department. All moneys received  
 8 by the department shall be temporarily credited by the state  
 9 treasurer to the department's suspense account. Each month  
 10 the department of revenue shall send to the department of  
 11 administration a distribution sheet designating the amount  
 12 to be deposited in each treasury fund and in each account."  
 13 Section 2. Section 15-1-503, MCA, is amended to read:  
 14 "15-1-503. Refund of overpayment -- procedure. (1)  
 15 When there has been an overpayment of ~~the inheritance tax~~  
 16 ~~collected by county treasurers or any other tax~~ collected by  
 17 the department of revenue and there is no law providing for  
 18 a refund, the department shall refund the amount of the  
 19 overpayment to the taxpayer, plus any interest and penalty  
 20 due the taxpayer, as provided in subsection (2) of this  
 21 section.  
 22 (2) No refund or payment shall be allowed unless a  
 23 claim is filed by the taxpayer before the expiration of 5  
 24 years from the time the tax was paid. Within 6 months after  
 25 the claim is filed, the department shall examine the claim

1 and either approve or disapprove it. If the claim is  
 2 approved, the credit or refund shall be made to the taxpayer  
 3 within 60 days after the claim is approved; if the claim is  
 4 disallowed, the department shall so notify the taxpayer and  
 5 shall grant a hearing on the claim. If the department  
 6 disapproves a claim after holding a hearing, the  
 7 determination of the department may be reviewed as provided  
 8 by 15-30-148."

9 Section 3. Section 72-3-631, MCA, is amended to read:

10 "72-3-631. Compensation of personal representative.

11 (1) A personal representative is entitled to reasonable  
 12 compensation for his services. Such compensation shall not  
 13 exceed 3% of the first \$40,000 of the value of the estate as  
 14 reported for federal estate tax ~~or state inheritance tax~~  
 15 ~~purposes, whichever is larger~~, and 2% of the value of the  
 16 estate in excess of \$40,000 as reported for federal estate  
 17 ~~tax or state inheritance tax purposes, whichever is larger.~~  
 18 However, a personal representative is entitled to a minimum  
 19 compensation of the lesser of \$100 or the value of the gross  
 20 estate.

21 (2) In proceedings conducted for the termination of  
 22 joint tenancies, the compensation of the personal  
 23 representative shall not exceed 2% of the interest passing.

24 (3) In proceedings conducted for the termination of a  
 25 life estate, the compensation allowed the personal

1 representative shall not exceed 2% of the value of the life  
 2 estate if it is terminated in connection with a probate or  
 3 joint tenancy termination. If a life estate is terminated  
 4 separately, the personal representative's compensation shall  
 5 not exceed 2% of the value of the estate, except that it  
 6 shall not be less than \$100.

7 (4) If there is more than one personal representative,  
 8 only one compensation is allowed.

9 (5) The court may allow additional compensation for  
 10 extraordinary services. Such additional compensation shall  
 11 not be greater than the amount which is allowed for the  
 12 original compensation.

13 (6) If the will provides for the compensation of the  
 14 personal representative and there is no contract with the  
 15 decedent regarding compensation, the personal representative  
 16 may renounce the provision before qualifying and be entitled  
 17 to compensation under the terms of this section. A personal  
 18 representative also may renounce his right to all or any  
 19 part of the compensation. A written renunciation of fee may  
 20 be filed with the court."

21 Section 4. Section 72-3-807, MCA, is amended to read:

22 "72-3-807. Classification of claims as to priority of  
 23 payment. (1) If the applicable assets of the estate are  
 24 insufficient to pay all claims in full, the personal  
 25 representative shall make payment in the following order:

- 1 (a) costs and expenses of administration;  
 2 (b) reasonable funeral expenses and reasonable and  
 3 necessary medical and hospital expenses of the last illness  
 4 of the decedent, including compensation of persons attending  
 5 him;  
 6 (c) federal estate and Montana state estate and  
 7 inheritance taxes;  
 8 (d) debts with preference under federal and Montana  
 9 law;  
 10 (e) other federal and Montana state taxes;  
 11 (f) all other claims.

12 (2) No preference shall be given in the payment of any  
 13 claim over any other claim of the same class, and a claim  
 14 due and payable shall not be entitled to a preference over  
 15 claims not due."

16 Section 5. Section 72-3-1006, MCA, is amended to read:

17 "72-3-1006. Certificate or receipt showing taxes paid  
 18 required to close estate. (1) In all probate proceedings  
 19 under this code, before final distribution to successors is  
 20 made and before any petition is granted under 72-3-1001,  
 21 72-3-1002, 72-3-1003, or 72-3-1004, there shall have been  
 22 filed with the clerk a certificate from the department of  
 23 revenue or a receipt from the county treasurer stating that  
 24 any inheritance estate tax due on the assets of the estate  
 25 has been paid.

1 (2) This section shall not prohibit such partial  
 2 distribution as may become necessary in the course of  
 3 administration."

4 Section 6. Section 72-3-1104, MCA, is amended to read:

5 "72-3-1104. Closing by sworn statement of personal  
 6 representative -- termination of appointment. (1) Unless  
 7 prohibited by order of the court and except for estates  
 8 being administered by supervised personal representatives, a  
 9 personal representative may close an estate administered  
 10 under the summary procedures of 72-3-1103 by filing with the  
 11 court, at any time after disbursement and distribution of  
 12 the estate, a verified statement stating that:

13 (a) to the best knowledge of the personal  
 14 representative, the value of the net distributable estate  
 15 did not exceed \$1,500 or the value of the entire estate,  
 16 less liens and encumbrances, did not exceed homestead  
 17 allowance, exempt property, family allowance, costs and  
 18 expenses of administration, reasonable funeral expenses, and  
 19 reasonable, necessary medical and hospital expenses of the  
 20 last illness of the decedent;

21 (b) the personal representative has fully administered  
 22 the estate by payment of inheritance estate taxes and by  
 23 disbursing and distributing it to the persons entitled  
 24 thereto; and

25 (c) the personal representative has sent a copy of the

1 closing statement to all distributees of the estate and to  
 2 all creditors or other claimants of whom he is aware whose  
 3 claims are neither paid nor barred and has furnished a full  
 4 account in writing of his administration to the distributees  
 5 whose interests are affected.

6 (2) If no actions or proceedings involving the  
 7 personal representative are pending in the court 1 year  
 8 after the closing statement is filed, the appointment of the  
 9 personal representative terminates.

10 (3) A closing statement filed under this section has  
 11 the same effect as one filed under 72-3-1004."

12 Section 7. Section 72-4-304, MCA, is amended to read:

13 "72-4-304. Determination of inheritance estate tax --  
 14 certificate of department of revenue showing tax paid,  
 15 waived, or bond posted. (1) The department of revenue shall  
 16 determine what inheritance estate tax, if any, is owing on  
 17 the property of the nonresident decedent located in this  
 18 state and shall send notice of the tax owing to the  
 19 domiciliary foreign personal representative and to the clerk  
 20 of court.

21 (2) Upon payment of the inheritance estate tax due or  
 22 if no tax is owing, the department of revenue shall issue a  
 23 certificate to the domiciliary foreign personal  
 24 representative indicating that inheritance estate taxes  
 25 either are not owing or have been paid and shall send a copy

1 of the certificate to the clerk of court.

2 (3) The department may issue an order waiving  
 3 inheritance estate taxes on a particular item of property  
 4 under such terms and circumstances as the department shall  
 5 determine.

6 (4) Upon the posting by the domiciliary foreign  
 7 personal representative of satisfactory bond, the department  
 8 may issue a certificate indicating that bond has been posted  
 9 sufficient to secure any inheritance estate tax due on the  
 10 in-state property of the nonresident decedent. This  
 11 certificate may be issued at any time after the filing of  
 12 the inventory with the clerk of court."

13 Section 8. Section 72-14-303, MCA, is amended to read:

14 "72-14-303. Inheritance Estate tax -- determination --  
 15 objections. The inheritance estate tax on estates subject to  
 16 parts 1 through 3 of this chapter is to be determined and  
 17 objections filed in accordance with Title 72, chapter 16,  
 18 part 4. The determination of the department of revenue shall  
 19 fix the amount of inheritance estate tax, if any, which is  
 20 due from a person claiming under this part to the state of  
 21 Montana upon the money or property claimed, and none of the  
 22 money or property shall be turned over to the claimant until  
 23 such inheritance estate tax is paid. The department of  
 24 revenue shall issue its interlocutory certificate showing  
 25 the amount of said inheritance estate tax due, if any, and

1 shall have the right to file objections and be heard upon  
2 the final determination of said tax."

3 Section 9. Section 72-16-101, MCA, is amended to read:

4 "72-16-101. Definitions. In ~~parts--1--through--8~~ this  
5 chapter, the following definitions apply:

6 (1) The words "estate" and "property" shall be taken to  
7 mean the real and personal property or interest therein  
8 passing or transferred to individual legatees, devisees,  
9 heirs, next of kin, grantees, donees, or vendees and not as  
10 the property or interest therein of the decedent, grantor,  
11 donor, or vendor and shall include all personal property  
12 within or without the state.

13 (2) The word "transfer" shall be taken to include the  
14 passing of property or any interest therein, in possession  
15 or enjoyment, present or future, by inheritance, descent,  
16 devise, succession, bequest, grant, deed, bargain, sale,  
17 gift, or appointment in the manner herein prescribed to each  
18 individual or corporation.

19 (3) The word "decedent" shall include the testator,  
20 intestate, grantor, bargainor, vendor, or donor.

21 (4) "Intangible" or "intangible property", when used  
22 without other qualifications, shall be taken to include all  
23 moneys, stocks, bonds, notes, securities, and credits of all  
24 kinds, secured or unsecured.

25 (5) The words "county treasurer", "public

1 administrator", and "county attorney" shall be taken to mean  
2 the treasurer, public administrator, and county attorney of  
3 the county in which the district court has jurisdiction of  
4 the proceedings.

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

12 Section 10. Section 72-16-102, MCA, is amended to  
13 read:

14 "72-16-102. Jurisdiction. (1) The district court of  
15 every county of the state having jurisdiction to grant  
16 letters testamentary or of administration upon the estate of  
17 a decedent whose property is chargeable with any tax under  
18 the ~~inheritance~~ estate tax laws or to appoint a trustee of  
19 such estate or any part thereof or to give ancillary letters  
20 thereon shall have jurisdiction to hear and determine all  
21 questions arising under the provisions of the ~~inheritance~~  
22 estate tax laws and to do any act in relation thereto  
23 authorized by law to be done by a district court in other  
24 matters or proceedings coming within its jurisdiction.

25 (2) If two or more district courts shall be entitled

1 to exercise any such jurisdiction, the district court first  
2 acquiring jurisdiction hereunder shall retain the same to  
3 the exclusion of every other district court."

4 Section 11. Section 72-16-201, MCA, is amended to  
5 read:

6 "72-16-201. Powers of department generally -- duty to  
7 supervise administration of tax laws -- reports. (1) The  
8 department of revenue in the conduct of inheritance estate  
9 tax affairs has the same powers for gathering information  
10 and making investigations as is conferred by law on the  
11 department in the performance of its other duties.

12 (2) The department shall supervise the administration  
13 of the inheritance estate tax laws and investigate such  
14 particular estates to which the inheritance estate tax laws  
15 apply throughout the various counties of the state and cause  
16 to be made and filed in its office reports of such  
17 investigations, together with specific information and facts  
18 as to particular estates, that may seem to require special  
19 consideration and attention by the department of justice;  
20 but no information so acquired may, in advance of legal  
21 action, be disclosed to anyone except proper officials and  
22 persons interested in such estate."

23 Section 12. Section 72-16-207, MCA, is amended to  
24 read:

25 "72-16-207. Forms and blanks -- department to furnish.

1 The department of revenue shall prescribe such forms and  
2 prepare such blanks as may be necessary in inheritance  
3 estate tax proceedings, and such blanks shall be printed at  
4 the expense of the state and furnished to each district  
5 court or the clerk thereof upon the request of the judge or  
6 clerk thereof."

7 Section 13. Section 72-16-208, MCA, is amended to  
8 read:

9 "72-16-208. Powers and duties of department as to  
10 nonresident estates. The department of revenue shall also  
11 gather information and make investigations and reports  
12 concerning the estates of nonresident decedents within the  
13 provisions of the inheritance estate tax laws and shall  
14 especially investigate the probate and other records for  
15 such probable estates without outside the state and report  
16 thereon from time to time to the department of justice and  
17 to the proper district court for appropriate legal action;  
18 but no information so acquired may, in advance of legal  
19 action, be disclosed to anyone except proper officials and  
20 persons interested in such estate."

21 Section 14. Section 72-16-210, MCA, is amended to  
22 read:

23 "72-16-210. Duty of justice department. The department  
24 of justice shall carry out and enforce the recommendations  
25 and directions of the department of revenue in all matters

1 pertaining to the conduct of inheritance estate tax  
2 affairs."

3 Section 15. Section 72-16-211, MCA, is amended to  
4 read:

5 "72-16-211. Public administrator -- duty to  
6 investigate concerning tax -- compensation generally. (1) It  
7 shall be the duty of the public administrator, under the  
8 general supervision of the department of revenue and with  
9 the assistance of the county attorney, when required by the  
10 department or district judge, to investigate the estates of  
11 deceased persons within his county and to appear for and act  
12 in behalf of the county and state in the district court in  
13 such estates as the court may in its discretion deem  
14 necessary.

15 (2) For such services the public administrator shall  
16 be entitled to 5% of the gross inheritance estate tax as  
17 determined in each such estate, to be paid by the county  
18 treasurer out of the inheritance estate tax funds upon an  
19 order of the district judge, provided that the minimum fee  
20 for each such estate shall not be less than \$5 and that it  
21 shall not exceed \$25; but in cases of unusual difficulty in  
22 estates of resident decedents where the tax exceeds \$500,  
23 the district judge may allow the public administrator such  
24 additional compensation as he may deem just and reasonable."

25 Section 16. Section 72-16-212, MCA, is amended to

1 read:

2 "72-16-212. Power of public administrator or other to  
3 seek administration when no application made. When no  
4 application for administration of the estate of any deceased  
5 person is made within 6 months after the demise of such  
6 person and such estate appears to come under the provisions  
7 of the inheritance estate tax laws or when administration  
8 has been completed without determining the tax, the public  
9 administrator of the proper county or any person interested  
10 in such estate may make application for such special or  
11 general administration as may be necessary for the purpose  
12 of the adjustment and payment of such tax, if any, or if no  
13 tax is due, for an order determining that fact."

14 Section 17. Section 72-16-214, MCA, is amended to  
15 read:

16 "72-16-214. Public administrator -- compensation under  
17 special provisions. In cases arising under 72-16-212 and  
18 ~~72-16-213~~, the public administrator, if appointed such  
19 special administrator, shall be entitled in the discretion  
20 of the court to the fees allowed by law to administrators or  
21 to other reasonable compensation, unless it be found that no  
22 tax is due."

23 Section 18. Section 72-16-215, MCA, is amended to  
24 read:

25 "72-16-215. County treasurer -- monthly report --



1 payment of collections to department -- interest on unpaid  
 2 amounts. On or before the fifth day of each month, each  
 3 county treasurer shall make a report under oath to the  
 4 department of revenue listing all payments received by him  
 5 under the inheritance ~~estate~~ tax laws during the preceding  
 6 month and stating for what estate, by whom, and when paid.  
 7 The form of such report shall be prescribed by the  
 8 department. He shall at the same time pay the department all  
 9 the payments received by him under the inheritance ~~estate~~  
 10 tax laws and not previously paid to the department, and for  
 11 all such payments collected by him and not paid to the  
 12 department within 5 days from the time herein required, he  
 13 shall pay interest at the rate of 10% per annum."

14 Section 19. Section 72-16-317, MCA, is amended to  
 15 read:

16 "72-16-317. Credit allowance on inheritance taxes paid  
 17 to other states. The tax imposed by this ~~part--and--part--9~~  
 18 ~~chapter~~ shall, as to a resident of the state of Montana who  
 19 died domiciled in Montana, be credited with the amount of  
 20 any valid inheritance, estate, legacy, or succession taxes  
 21 actually paid to any state or territory of the United States  
 22 (other than the state of Montana) or to the District of  
 23 Columbia. However, the amount to be so credited shall in no  
 24 event exceed that amount which the resident decedent was  
 25 taxed on that property in Montana."

1 Section 20. Section 72-16-431, MCA, is amended to  
 2 read:

3 "72-16-431. Tax -- when due and payable. All taxes  
 4 imposed by ~~parts 1 through 8~~ part 9 shall be due and payable  
 5 at the time of the death of the decedent, ~~--except as~~  
 6 ~~hereinafter provided."~~

7 Section 21. Section 72-16-441, MCA, is amended to  
 8 read:

9 "72-16-441. Interest on overdue payments. (1) If ~~such~~  
 10 ~~the estate~~ tax is not paid within 18 months of the death of  
 11 the decedent, interest shall be charged and collected  
 12 thereon at the rate of 10% a year from the time the tax  
 13 accrued, unless because of claims made upon the estate,  
 14 necessary litigation, or other unavoidable cause of delay  
 15 the tax is not determined and paid as herein provided, in  
 16 which case interest at the rate of 6% shall be charged upon  
 17 such tax from the accrual thereof until the cause of such  
 18 delay is removed, after which time 10% shall be charged.

19 (2) Litigation to defeat the payment of the tax is not  
 20 necessary litigation.

21 (3) When permission has been granted to defer payment  
 22 of tax under ~~72-16-438~~ 72-16-910, interest shall be charged  
 23 at the rate of 6% after 1 year from the date of death until  
 24 the date of payment thereof."

25 Section 22. Section 72-16-443, MCA, is amended to

1 read:

2 "72-16-443. Collection of unpaid taxes. (1) If any  
3 county treasurer, the state treasurer, or the department of  
4 revenue has reason to believe that any tax is due and unpaid  
5 under the provisions of ~~parts 1 through 8~~ part 2, after the  
6 refusal or neglect of any person liable therefor to pay the  
7 same, he or it shall notify the attorney general in writing  
8 of such failure or neglect; and the attorney general, if he  
9 has probable cause to believe that such tax is due and  
10 unpaid, shall apply to the district court for a citation  
11 citing the person liable to pay such tax to appear before  
12 the court on the day specified, not more than 3 months from  
13 the date of such citation, and show cause why the tax should  
14 not be paid.

15 (2) The judge of the district court, upon such  
16 application and whenever it appears to him that any such tax  
17 accruing under ~~parts 1 through 8~~ part 2 has not been paid as  
18 required by law, shall issue such citation. The service of  
19 such citation and the time, manner, and proof thereof and  
20 the hearing and determination thereof shall conform as near  
21 as may be to the provisions of the laws governing probate  
22 practice of this state.

23 (3) Whenever it appears that any such tax is due and  
24 payable and the payment thereof cannot be enforced under the  
25 provisions of ~~parts 1 through 8~~ this chapter in such

1 district court, the person or corporation from whom the same  
2 is due is hereby made liable to the state for the amount of  
3 such tax; and the attorney general, in the name of the  
4 state, shall sue for and enforce the collection of such tax,  
5 and the county attorney of the county shall appear for and  
6 act on behalf of any county treasurer who is cited to appear  
7 before any district court under the provisions of ~~parts 1  
8 through 8~~ this chapter."

9 Section 23. Section 72-16-452, MCA, is amended to  
10 read:

11 "72-16-452. Deferred payment for transfer of closely  
12 held business interest. (1) ~~if subject to subsection (3), if~~  
13 the value of an interest in a closely held business that is  
14 taxable under Title 72, chapter 16, ~~part 3v as a transfer~~  
15 ~~from a decedent who was at the time of death a resident of~~  
16 ~~this state~~ exceeds 65% of the adjusted gross estate, the  
17 personal representative may elect to pay all or part of the  
18 tax imposed by Title 72, chapter 16, ~~part 3v~~ in 2 or more  
19 but less than 11 equal installments.

20 (2) The maximum amount of tax that may be paid in  
21 installments by each beneficiary is an amount that bears the  
22 same ratio to the tax imposed by Title 72, chapter 16, ~~part~~  
23 ~~3v~~ as the closely held business amount passing to the  
24 beneficiary bears to the clear market value of all property  
25 passing to the beneficiary, without reduction for the

1 federal estate tax due or paid.

2 (3) If an election is made under (1) of this section,  
 3 ~~the first installment must be paid on or before a date~~  
 4 ~~selected by the personal representative that is not more~~  
 5 ~~than 5 years after the date prescribed by 72-16-441 for the~~  
 6 ~~payment of tax without interest, if, however, a credit is~~  
 7 ~~claimed on the federal estate tax return for state death~~  
 8 ~~taxes on the estate under the provisions of section 2011(a)~~  
 9 ~~of the Internal Revenue Code, as amended, an amount of~~  
 10 ~~inheritance tax due equal to the federal credit Montana~~  
 11 ~~estate tax must be paid within the period established in~~  
 12 ~~section 2011(c) of the Internal Revenue Code, as amended.~~  
 13 ~~Each succeeding installment must be paid on or before the~~  
 14 ~~date that is 1 year after the date of the preceding~~  
 15 ~~installments. The department may for reasonable cause extend~~  
 16 ~~the time for payment of any installment under this section,~~  
 17 ~~including any part of an additional tax prorated to any~~  
 18 ~~installment, for a reasonable period but not beyond the date~~  
 19 ~~that is 12 months after the due date for the last~~  
 20 ~~installments.~~

21 (4) If an election is made under (1) of this section,  
 22 the tax due may not be further deferred under the provisions  
 23 of 72-16-438 72-16-910."

24 Section 24. Section 72-16-453, MCA, is amended to  
 25 read:

1 "72-16-453. Closely held business defined --  
 2 qualification. (1) For the purposes of 72-16-452, the term  
 3 "interest in a closely held business" means:

4 (a) an interest as a proprietor in a trade or business  
 5 carried on as a proprietorship;

6 (b) an interest as a partner in a partnership carrying  
 7 on a trade or business if:

8 (i) 20% or more of the total capital interest in the  
 9 partnership is taxable under Title 72, chapter 16, ~~part 3,~~  
 10 ~~as a transfer from the decedent;~~ or

11 (ii) the partnership had 15 or fewer partners;

12 (c) stock in a corporation carrying on a trade or  
 13 business if:

14 (i) 20% or more in value of the voting stock of the  
 15 corporation is taxable under Title 72, chapter 16, ~~part 3,~~  
 16 ~~as a transfer from the decedent;~~ or

17 (ii) the corporation had 15 or fewer shareholders.

18 (2) Determination for qualification under (1) of this  
 19 section must be made as of the time immediately before the  
 20 decedent's death.

21 (3) Stock or a partnership interest held by a husband  
 22 and wife as joint tenants or tenants in common is treated as  
 23 owned by one shareholder or one partner, as the case may be.

24 (4) Property owned directly or indirectly by or for a  
 25 corporation, partnership, estate, or trust is considered as

1 being owned proportionately by or for its shareholders,  
2 partners, or beneficiaries. For the purposes of this  
3 subsection, a person is a beneficiary of a trust only if he  
4 has a present interest in the trust.

5 (5) All stock and all partnership interests held by  
6 the decedent or by any member of his family within the  
7 meaning of section 267(c)(4) of the Internal Revenue Code is  
8 treated as being owned by the decedent."

9 Section 25. Section 72-16-455, MCA, is amended to  
10 read:

11 "72-16-455. Partnership interests and stock not  
12 readily tradable. (1) If the personal representative elects  
13 the benefits of this section, at such time and in such  
14 manner as the department may prescribe:

15 (a) for the purposes of subsection (1)(b)(i) or  
16 (1)(c)(i) of 72-16-453, whichever is appropriate, and for  
17 the purposes of 72-16-456, any capital interest in a  
18 partnership and any nonreadily tradable stock, which after  
19 the application of subsections (2) through (5) of 72-16-453  
20 is treated as owned by the decedent, shall be treated as  
21 taxable under Title 72, chapter 16, ~~part-3~~, in determining  
22 the value of ~~a transfer from the decedent of the estate; and~~

23 (b) the personal representative shall be treated as  
24 having selected under 72-16-452(3) the date prescribed by  
25 72-16-441 for the payment of the tax without interest, and

1 ~~(c) section 72-16-461 does not apply.~~

2 (2) For the purposes of this section, "nonreadily  
3 tradable stock" means stock for which at the time of the  
4 decedent's death there was no market on the stock exchange  
5 or in an over-the-counter market."

6 Section 26. Section 72-16-456, MCA, is amended to  
7 read:

8 "72-16-456. Interests in more than one closely held  
9 business. (1) Interests in two or more closely held  
10 businesses, with respect to which there is taxable under  
11 Title 72, chapter 16, ~~part-3~~, ~~as a transfer from the~~  
12 ~~decedent~~ more than 20% of the total value of each business,  
13 shall be treated as an interest in a single closely held  
14 business.

15 (2) For the purposes of the 20% requirement of (1) of  
16 this section, an interest in a closely held business that  
17 represents the surviving spouse's interest in property held  
18 by the decedent and the surviving spouse as joint tenants or  
19 tenants in common shall be treated as taxable under Title  
20 72, chapter 16, ~~part-3~~, in determining the value of a  
21 ~~transfer from the decedent~~ decedent's estate."

22 Section 27. Section 72-16-458, MCA, is amended to  
23 read:

24 "72-16-458. Proration of any additional tax when  
25 election made. (1) If an election is made under 72-16-452 to

1 pay any part of the tax imposed by Title 72, chapter 16,  
2 ~~part-3~~ in installments and an additional tax is determined,  
3 the additional tax, subject to the limitation provided by  
4 72-16-452(2), shall be prorated to the installments payable  
5 under 72-16-452.

6 (2) (a) The part of the additional tax so prorated to  
7 any installment, the date for payment of which has not  
8 arrived, shall be collected at the same time as and as part  
9 of the installment.

10 (b) The part of the additional tax so prorated to any  
11 installment already paid shall be paid on notice and demand  
12 from the department.

13 (3) This section does not apply if the additional tax  
14 is due to negligence, intentional disregard of rules, or  
15 fraud with intent to evade tax."

16 Section 28. Section 72-16-459, MCA, is amended to  
17 read:

18 "72-16-459. Election of deferral as to additional tax.

19 (1) If an additional tax is determined under Title 72,  
20 chapter 16, ~~part-3~~ and the estate qualifies under 72-16-452  
21 and the personal representative has not made an election  
22 under 72-16-452, the personal representative may elect to  
23 pay the additional tax in installments.

24 (2) An election under this section must be made not  
25 later than 60 days after notice and demand for payment of

1 the additional tax has been given by the department and must  
2 be made in the manner prescribed by the department.

3 (3) If an election is made under this section, the  
4 additional tax shall, subject to the limitation in  
5 72-16-452(2), be prorated to the installments that would  
6 have been due if an election had been timely made under  
7 72-16-452. The part of the additional tax so prorated to any  
8 installment the date for payment of which would have arrived  
9 shall be paid at the time of the making of the election  
10 under this section. The portion of the additional tax  
11 prorated to installments, the date for payment of which  
12 would not have so arrived, shall be paid at the time such  
13 installments would have been due if such an election had  
14 been made."

15 Section 29. Section 72-16-461, MCA, is amended to  
16 read:

17 "72-16-461. Interest required when payment deferred --  
18 rate. (1) If the time for payment of an amount of tax  
19 imposed by Title 72, chapter 16, ~~part--3~~ is extended as  
20 provided in 72-16-452 interest on the 4% portion of such  
21 amount shall, in lieu of the annual rate provided by  
22 72-16-441, be paid at the rate of 4%. For the purposes of  
23 this section, the amount of any additional tax that is  
24 prorated to installments payable under 72-16-459 shall be  
25 treated as an amount of tax payable in installments under

1 that section.

2 (2) For the purposes of this section, "4% portion"  
3 means the lesser of:

4 (a) \$345,800; or

5 (b) the amount of the tax imposed by Title 72, chapter  
6 16, ~~part-3~~, which is extended as provided in 72-16-452.

7 (3) If the amount of tax imposed by Title 72, chapter  
8 16, ~~part--3~~ that is extended exceeds the 4% portion, any  
9 payment of a portion of such amount shall, for the purpose  
10 of computing interest for periods after such payment, be  
11 treated as reducing the 4% portion by an amount that bears  
12 the same ratio to the amount of such payment as the amount  
13 of the 4% portion, determined without regard to this  
14 section, bears to the amount of tax that is extended as  
15 provided in 72-16-452."

16 Section 30. Section 72-16-465, MCA, is amended to  
17 read:

18 "72-16-465. Effect of payment deferral on statute of  
19 limitations. The running of the period of limitations for  
20 collection of any tax imposed by Title 72, chapter 16, ~~part~~  
21 ~~3~~ is suspended for the period of any extension of time for  
22 payment granted under 72-16-452."

23 Section 31. Section 72-16-471, MCA, is amended to  
24 read:

25 "72-16-471. Definitions for lien on deferred tax

1 purposes. As used in 72-16-471 through 72-16-482, the  
2 following definitions apply:

3 (1) "Deferral period" means the period for which the  
4 payment of tax is deferred under 72-16-452.

5 (2) "Deferred amount" means the aggregate amount  
6 deferred under 72-16-452 determined as of the date  
7 prescribed by 72-16-441 for payment without interest of the  
8 tax imposed by Title 72, chapter 16, ~~part-3~~.

9 (3) "Lien property" means interests in real and other  
10 property to the extent such interests can be expected to  
11 survive the deferral period and are designated in the  
12 agreement referred to in 72-16-474.

13 (4) "Required interest amount" means the aggregate  
14 amount of interest that will be payable over the first 4  
15 years of the deferral period with respect to the deferred  
16 amount determined as of the date prescribed for payment  
17 without interest of the tax imposed by Title 72, chapter 16, ~~part-3~~.  
18

19 Section 32. Section 72-16-502, MCA, is amended to  
20 read:

21 "72-16-502. Determination and payment of tax when no  
22 personal representative -- procedure. (1) For the purposes  
23 of this section, a decedent is one who dies leaving no  
24 property which requires the appointment of a personal  
25 representative and:

1 (a) was the owner of a life estate which terminated at  
2 his death;

3 (b) was the owner of property with another or others  
4 as a joint tenant with right of survivorship and not as a  
5 tenant in common; or

6 (c) was the owner of any other interest in property  
7 requiring the determination of inheritance ~~estate~~ tax  
8 ~~because-of-his-death.~~

9 (2) Upon the death of a decedent, a remainderman,  
10 surviving joint tenant, or other interested party shall file  
11 with the department of revenue:

12 (a) a copy of the death certificate;

13 (b) a verified application in a form prescribed by the  
14 department containing such information as the department  
15 considers necessary; and

16 (c) evidence of the instruments which created the life  
17 estate, joint tenancy, or other interest requiring  
18 determination of inheritance ~~estate~~ tax, if required by the  
19 department.

20 (3) Upon receipt of the application, the department  
21 shall:

22 (a) stamp the filing date upon the application;

23 (b) issue a certificate showing the inheritance ~~estate~~  
24 tax due, if any;

25 (c) affix the certificate to a certified copy of the

1 application and return the same to the applicant or his  
2 attorney; and

3 (d) affix a copy of the certificate to the original  
4 application and keep it on file with the department.

5 (4) The applicant shall pay the inheritance ~~estate~~ tax  
6 determined to the county treasurer for transmittal to the  
7 state treasurer. The county treasurer shall issue a receipt  
8 for the payment of the tax.

9 ~~{5}--if-disputes-arise--as--to--tax--computation--they~~  
10 ~~shall--be--resolved--as--provided--under--the--laws--applicable--to~~  
11 ~~the-determination-of-inheritance-taxes-in-estates"~~

12 Section 33. Section 72-16-503, MCA, is amended to  
13 read:

14 "72-16-503. Additional filings required when real  
15 property involved and no representative -- release of lien.

16 (1) If an interest in real property is involved under  
17 72-16-502, the applicant shall file with the clerk and  
18 recorder of each county in which the real property or any  
19 part thereof is located:

20 (a) a certified copy of the application referred to in  
21 subsection (2)(b) of 72-16-502;

22 (b) the certificate from the department of revenue  
23 determining inheritance ~~estate~~ tax, if any;

24 (c) the receipt from the county treasurer showing the  
25 inheritance ~~estate~~ tax has been paid.

1 (2) The filing of the documents under subsection (1)  
2 constitutes release of any lien for inheritance ~~estate~~  
3 taxes."

4 Section 34. Section 72-16-504, MCA, is amended to  
5 read:

6 "72-16-504. Determination and payment of tax when  
7 personal representative appointed -- procedure. If a  
8 decedent dies leaving property which requires the  
9 appointment of a personal representative and was also an  
10 owner of property as described in 72-16-502(1), the  
11 remainderman, surviving joint tenant, personal  
12 representative, or other interested party may have the  
13 inheritance ~~estate~~ tax determined and the joint tenancy  
14 terminated or ownership transferred as provided in 72-16-501  
15 through 72-16-503 by filing with the department:

16 (1) the information listed in 72-16-502(2); and

17 (2) the name of the county of administration or  
18 probate and the court file number."

19 Section 35. Section 72-16-902, MCA, is amended to  
20 read:

21 "72-16-902. Applicability of other tax provisions. The  
22 provisions of parts 1 through 8 ~~relating to the tax on~~  
23 ~~inheritances and transfers~~ shall apply to the taxes imposed  
24 by this part, insofar as the same are applicable and not in  
25 conflict with the provisions hereof."

1 Section 36. Section 72-16-903, MCA, is amended to  
2 read:

3 "72-16-903. Taxable situs of property. For the purpose  
4 of this tax, the taxable situs of property ~~shall be the same~~  
5 ~~as the taxable situs for inheritance tax purposes~~ is in  
6 this state when:

7 (1) the property is transferred by will or by the  
8 intestate law of this state from any person dying possessed  
9 of the property while a resident of this state; or

10 (2) the property is within this state and is  
11 transferred by will or intestate law of this state and the  
12 decedent was a nonresident of the state at the time of this  
13 death."

14 Section 37. Section 72-16-904, MCA, is amended to  
15 read:

16 "72-16-904. Estate tax imposed. ~~In addition to the~~  
17 ~~inheritance taxes hereinabove imposed,~~ an estate tax is  
18 hereby imposed upon the transfer of the estate of every  
19 decedent leaving an estate which is subject to the federal  
20 estate tax imposed ~~by the United States of America~~ under the  
21 applicable provisions of the Internal Revenue Code and which  
22 has, in whole or in part, a taxable situs in this state."

23 Section 38. Section 72-16-905, MCA, is amended to  
24 read:

25 "72-16-905. Estate tax -- how computed. The tax hereby



1 imposed upon the transfer of each such estate shall be equal  
 2 to the maximum tax credit allowable for state death taxes  
 3 against the federal estate tax imposed with respect to the  
 4 portion of the decedent's estate having a taxable situs in  
 5 this state, ~~less the inheritance taxes, if any, due this~~  
 6 ~~state,~~ it being the purpose and intent of this part to  
 7 impose only such additional taxes hereunder as may be  
 8 necessary to give this state the full benefit of the maximum  
 9 tax credit allowable against the federal estate tax imposed  
 10 with respect to a decedent's estate which has a taxable  
 11 situs in this state. If only a portion of a decedent's  
 12 estate has a taxable situs in this state, such maximum tax  
 13 credit shall be determined by multiplying the entire amount  
 14 of the credit allowable against the federal estate tax for  
 15 state death taxes by the percentage which the value of the  
 16 portion of the decedent's estate which has a taxable situs  
 17 in this state bears to the value of the entire estate."

18 Section 39. Section 72-16-907, MCA, is amended to  
 19 read:

20 "72-16-907. Department to determine tax -- rehearing  
 21 and appeal. (1) The department of revenue shall enter an  
 22 order determining ~~such the~~ state estate tax and the amount  
 23 thereof so due and payable.

24 (2) ~~(a)~~ Any person in interest aggrieved by such ~~the~~  
 25 determination ~~shall have the same right to apply for~~

1 ~~district court determination and of rehearing and appeal as~~  
 2 ~~is now provided for in the determination of inheritance~~  
 3 ~~taxes may, within 60 days after the determination is made,~~  
 4 ~~appeal the determination to the appropriate district court~~  
 5 ~~by serving upon the department his objections to the~~  
 6 ~~determination and by filing the notice, after serving it, in~~  
 7 ~~the office of the clerk of the district court.~~

8 (b) The court shall set a day for hearing the appeal  
 9 upon 10 days' notice to all interested parties and, at the  
 10 time and place set, shall hear the appeal upon all papers  
 11 and records that are properly presented before it and, as  
 12 soon as possible thereafter, shall issue its order  
 13 determining the amount of the estate tax, if it finds a tax  
 14 to be due."

15 Section 40. Repealer. Sections 35-21-422, 72-16-202,  
 16 72-16-209, 72-16-213, 72-16-218, 72-16-301 through  
 17 72-16-308, 72-16-311 through 72-16-316, 72-16-318,  
 18 72-16-319, 72-16-321, 72-16-322, 72-16-331 through  
 19 72-16-342, 72-16-401 through 72-16-403, 72-16-411 through  
 20 72-16-425, 72-16-432 through 72-16-440, 72-16-442,  
 21 72-16-480, 72-16-491 through 72-16-493, 72-16-701 through  
 22 72-16-706, 72-16-801 through 72-16-805, and 72-16-902, MCA,  
 23 are repealed.

24 Section 41. Applicability. This act applies to estates  
 25 of decedents dying after the effective date of this act.

## STATE OF MONTANA

REQUEST NO. 159-81

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 292 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

An act repealing the Montana Inheritance Tax and amending those sections that apply to the administration of both the Inheritance Tax and the Estate Tax.

ASSUMPTIONS

1. Inheritance Tax revenue under the current law is \$6.7 million and \$7 million for FY 82 and FY 83, respectively.
2. Estate Tax revenue is \$2 million for both fiscal years. Note that actual Estate Tax revenue can be extremely volatile over time.

FISCAL IMPACT

General Fund	FY 82	FY 83
Under current law	\$6.75 M	\$7.00 M
Under proposed law	<u>2.00 M</u>	<u>2.00 M</u>
Estimated Decrease	(\$4.75 M)	(\$5.00 M)

PREPARED BY THE DEPARTMENT OF REVENUE

*David M. Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-26-81

Committee on Taxation  
recommend do not pass

On motion placed on second  
reading

HOUSE BILL NO. 292

*Meyer*  
INTRODUCED BY *Wesley Bertelsen, Delbert Falgout, Krupp, Wittbrecht, Hammar, Windsor, J. HARRIS*

1 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA  
2 INHERITANCE TAX AND AMENDING THOSE SECTIONS THAT APPLY TO  
3 THE ADMINISTRATION OF BOTH THE INHERITANCE TAX AND THE  
4 ESTATE TAX; AMENDING SECTIONS 15-1-502, 15-1-503, 72-3-631,  
5 72-3-807, 72-3-1006, 72-3-1104, 72-4-304, 72-14-303,  
6 72-15-101, 72-16-102, 72-16-201, 72-16-207, 72-16-208,  
7 72-16-210 THROUGH 72-16-212, 72-16-214, 72-16-215,  
8 72-16-317, 72-16-431, 72-16-441, 72-16-443, 72-16-452,  
9 72-16-453, 72-16-455, 72-16-456, 72-16-458, 72-16-459,  
10 72-16-461, 72-16-465, 72-16-471, 72-16-502 THROUGH  
11 72-16-534, 72-16-902 THROUGH 72-16-905, 72-16-907, MCA;  
12 REPEALING SECTIONS 35-21-422, 72-16-202, 72-16-209,  
13 72-16-213, 72-16-218, 72-16-301 THROUGH 72-16-308, 72-16-311  
14 THROUGH 72-16-316, 72-16-318, 72-16-319, 72-16-321,  
15 72-16-322, 72-16-331 THROUGH 72-16-342, 72-16-401 THROUGH  
16 72-16-403, 72-16-411 THROUGH 72-16-425, 72-16-432 THROUGH  
17 72-16-440, 72-16-442, 72-16-480, 72-16-491 THROUGH  
18 72-16-493, 72-16-701 THROUGH 72-16-706, 72-16-801 THROUGH  
19 72-16-805, AND 72-16-902, MCA; AND PROVIDING FOR AN  
20 APPLICABILITY DATE."  
21  
22  
23  
24  
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 15-1-502, MCA, is amended to read:  
2 "15-1-502. Suspense account for receipts and refunds.  
3 The department of revenue shall establish a suspense account  
4 in the state treasury for the purpose of conveniently  
5 processing receipts and for paying refunds for overpayments  
6 of inheritance taxes collected by county treasurers and all  
7 other taxes collected by the department. All moneys received  
8 by the department shall be temporarily credited by the state  
9 treasurer to the department's suspense account. Each month  
10 the department of revenue shall send to the department of  
11 administration a distribution sheet designating the amount  
12 to be deposited in each treasury fund and in each account."  
13  
14 Section 2. Section 15-1-503, MCA, is amended to read:  
15 "15-1-503. Refund of overpayment -- procedure. (1)  
16 When there has been an overpayment of the inheritance tax  
17 collected by county treasurers or any other tax collected by  
18 the department of revenue and there is no law providing for  
19 a refund, the department shall refund the amount of the  
20 overpayment to the taxpayer, plus any interest and penalty  
21 due the taxpayer, as provided in subsection (2) of this  
22 section.  
23 (2) No refund or payment shall be allowed unless a  
24 claim is filed by the taxpayer before the expiration of 5  
25 years from the time the tax was paid. Within 6 months after  
the claim is filed, the department shall examine the claim

1 and either approve or disapprove it. If the claim is  
 2 approved, the credit or refund shall be made to the taxpayer  
 3 within 60 days after the claim is approved; if the claim is  
 4 disallowed, the department shall so notify the taxpayer and  
 5 shall grant a hearing on the claim. If the department  
 6 disapproves a claim after holding a hearing, the  
 7 determination of the department may be reviewed as provided  
 8 by 15-30-148."

9 Section 3. Section 72-3-631, MCA, is amended to read:

10 "72-3-631. Compensation of personal representative.

11 (1) A personal representative is entitled to reasonable  
 12 compensation for his services. Such compensation shall not  
 13 exceed 3% of the first \$40,000 of the value of the estate as  
 14 reported for federal estate tax ~~or state inheritance tax~~  
 15 ~~purposes, whichever is larger~~ and 2% of the value of the  
 16 estate in excess of \$40,000 as reported for federal estate  
 17 tax ~~or state inheritance tax~~ ~~purposes, whichever is larger.~~  
 18 However, a personal representative is entitled to a minimum  
 19 compensation of the lesser of \$100 or the value of the gross  
 20 estate.

21 (2) In proceedings conducted for the termination of  
 22 joint tenancies, the compensation of the personal  
 23 representative shall not exceed 2% of the interest passing.

24 (3) In proceedings conducted for the termination of a  
 25 life estate, the compensation allowed the personal

1 representative shall not exceed 2% of the value of the life  
 2 estate if it is terminated in connection with a probate or  
 3 joint tenancy termination. If a life estate is terminated  
 4 separately, the personal representative's compensation shall  
 5 not exceed 2% of the value of the estate, except that it  
 6 shall not be less than \$100.

7 (4) If there is more than one personal representative,  
 8 only one compensation is allowed.

9 (5) The court may allow additional compensation for  
 10 extraordinary services. Such additional compensation shall  
 11 not be greater than the amount which is allowed for the  
 12 original compensation.

13 (6) If the will provides for the compensation of the  
 14 personal representative and there is no contract with the  
 15 decedent regarding compensation, the personal representative  
 16 may renounce the provision before qualifying and be entitled  
 17 to compensation under the terms of this section. A personal  
 18 representative also may renounce his right to all or any  
 19 part of the compensation. A written renunciation of fee may  
 20 be filed with the court."

21 Section 4. Section 72-3-807, MCA, is amended to read:

22 "72-3-807. Classification of claims as to priority of  
 23 payment. (1) If the applicable assets of the estate are  
 24 insufficient to pay all claims in full, the personal  
 25 representative shall make payment in the following order:

- 1 (a) costs and expenses of administration;  
 2 (b) reasonable funeral expenses and reasonable and  
 3 necessary medical and hospital expenses of the last illness  
 4 of the decedent, including compensation of persons attending  
 5 him;  
 6 (c) federal estate and Montana state estate and  
 7 inheritance taxes;  
 8 (d) debts with preference under federal and Montana  
 9 law;  
 10 (e) other federal and Montana state taxes;  
 11 (f) all other claims.

12 (2) No preference shall be given in the payment of any  
 13 claim over any other claim of the same class, and a claim  
 14 due and payable shall not be entitled to a preference over  
 15 claims not due."

16 Section 5. Section 72-3-1006, MCA, is amended to read:  
 17 "72-3-1006. Certificate or receipt showing taxes paid  
 18 required to close estate. (1) In all probate proceedings  
 19 under this code, before final distribution to successors is  
 20 made and before any petition is granted under 72-3-1001,  
 21 72-3-1002, 72-3-1003, or 72-3-1004, there shall have been  
 22 filed with the clerk a certificate from the department of  
 23 revenue or a receipt from the county treasurer stating that  
 24 any inheritance ~~estate~~ tax due on the assets of the estate  
 25 has been paid.

1 (2) This section shall not prohibit such partial  
 2 distribution as may become necessary in the course of  
 3 administration."

4 Section 6. Section 72-3-1104, MCA, is amended to read:  
 5 "72-3-1104. Closing by sworn statement of personal  
 6 representative -- termination of appointment. (1) Unless  
 7 prohibited by order of the court and except for estates  
 8 being administered by supervised personal representatives, a  
 9 personal representative may close an estate administered  
 10 under the summary procedures of 72-3-1103 by filing with the  
 11 court, at any time after disbursement and distribution of  
 12 the estate, a verified statement stating that:

13 (a) to the best knowledge of the personal  
 14 representative, the value of the net distributable estate  
 15 did not exceed \$1,500 or the value of the entire estate,  
 16 less liens and encumbrances, did not exceed homestead  
 17 allowance, exempt property, family allowance, costs and  
 18 expenses of administration, reasonable funeral expenses, and  
 19 reasonable, necessary medical and hospital expenses of the  
 20 last illness of the decedent;

21 (b) the personal representative has fully administered  
 22 the estate by payment of inheritance ~~estate~~ taxes and by  
 23 disbursing and distributing it to the persons entitled  
 24 thereto; and

25 (c) the personal representative has sent a copy of the

1 closing statement to all distributees of the estate and to  
 2 all creditors or other claimants of whom he is aware whose  
 3 claims are neither paid nor barred and has furnished a full  
 4 account in writing of his administration to the distributees  
 5 whose interests are affected.

6 (2) If no actions or proceedings involving the  
 7 personal representative are pending in the court 1 year  
 8 after the closing statement is filed, the appointment of the  
 9 personal representative terminates.

10 (3) A closing statement filed under this section has  
 11 the same effect as one filed under 72-3-1004."

12 Section 7. Section 72-4-304, MCA, is amended to read:

13 "72-4-304. Determination of inheritance estate tax --  
 14 certificate of department of revenue showing tax paid,  
 15 waived, or bond posted. (1) The department of revenue shall  
 16 determine what inheritance estate tax, if any, is owing on  
 17 the property of the nonresident decedent located in this  
 18 state and shall send notice of the tax owing to the  
 19 domiciliary foreign personal representative and to the clerk  
 20 of court.

21 (2) Upon payment of the inheritance estate tax due or  
 22 if no tax is owing, the department of revenue shall issue a  
 23 certificate to the domiciliary foreign personal  
 24 representative indicating that inheritance estate taxes  
 25 either are not owing or have been paid and shall send a copy

1 of the certificate to the clerk of court.

2 (3) The department may issue an order waiving  
 3 inheritance estate taxes on a particular item of property  
 4 under such terms and circumstances as the department shall  
 5 determine.

6 (4) Upon the posting by the domiciliary foreign  
 7 personal representative of satisfactory bond, the department  
 8 may issue a certificate indicating that bond has been posted  
 9 sufficient to secure any inheritance estate tax due on the  
 10 in-state property of the nonresident decedent. This  
 11 certificate may be issued at any time after the filing of  
 12 the inventory with the clerk of court."

13 Section 8. Section 72-14-303, MCA, is amended to read:

14 "72-14-303. Inheritance estate tax -- determination --  
 15 objections. The inheritance estate tax on estates subject to  
 16 parts 1 through 3 of this chapter is to be determined and  
 17 objections filed in accordance with Title 72, chapter 16,  
 18 part-4. The determination of the department of revenue shall  
 19 fix the amount of inheritance estate tax, if any, which is  
 20 due from a person claiming under this part to the state of  
 21 Montana upon the money or property claimed, and none of the  
 22 money or property shall be turned over to the claimant until  
 23 such inheritance estate tax is paid. The department of  
 24 revenue shall issue its interlocutory certificate showing  
 25 the amount of said inheritance estate tax due, if any, and

1 shall have the right to file objections and be heard upon  
2 the final determination of said tax."

3 Section 9. Section 72-16-101, MCA, is amended to read:

4 "72-16-101. Definitions. In parts ~~1 through 8~~ this  
5 chapter, the following definitions apply:

6 (1) The words "estate" and "property" shall be taken to  
7 mean the real and personal property or interest therein  
8 passing or transferred to individual legatees, devisees,  
9 heirs, next of kin, grantees, donees, or vendees and not as  
10 the property or interest therein of the decedent, grantor,  
11 donor, or vendor and shall include all personal property  
12 within or without the state.

13 (2) The word "transfer" shall be taken to include the  
14 passing of property or any interest therein, in possession  
15 or enjoyment, present or future, by inheritance, descent,  
16 devise, succession, bequest, grant, deed, bargain, sale,  
17 gift, or appointment in the manner herein prescribed to each  
18 individual or corporation.

19 (3) The word "decedent" shall include the testator,  
20 intestate, grantor, bargainor, vendor, or donor.

21 (4) "Intangible" or "intangible property", when used  
22 without other qualifications, shall be taken to include all  
23 moneys, stocks, bonds, notes, securities, and credits of all  
24 kinds, secured or unsecured.

25 (5) The words "county treasurer", "public

1 administrator", and "county attorney" shall be taken to mean  
2 the treasurer, public administrator, and county attorney of  
3 the county in which the district court has jurisdiction of  
4 the proceedings.

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

12 Section 10. Section 72-16-102, MCA, is amended to  
13 read:

14 "72-16-102. Jurisdiction. (1) The district court of  
15 every county of the state having jurisdiction to grant  
16 letters testamentary or of administration upon the estate of  
17 a decedent whose property is chargeable with any tax under  
18 the ~~inheritance~~ estate tax laws or to appoint a trustee of  
19 such estate or any part thereof or to give ancillary letters  
20 thereon shall have jurisdiction to hear and determine all  
21 questions arising under the provisions of the ~~inheritance~~  
22 estate tax laws and to do any act in relation thereto  
23 authorized by law to be done by a district court in other  
24 matters or proceedings coming within its jurisdiction.

25 (2) If two or more district courts shall be entitled

1 to exercise any such jurisdiction, the district court first  
2 acquiring jurisdiction hereunder shall retain the same to  
3 the exclusion of every other district court."

4 Section 11. Section 72-16-201, MCA, is amended to  
5 read:

6 "72-16-201. Powers of department generally -- duty to  
7 supervise administration of tax laws -- reports. (1) The  
8 department of revenue in the conduct of inheritance ~~estate~~  
9 tax affairs has the same powers for gathering information  
10 and making investigations as is conferred by law on the  
11 department in the performance of its other duties.

12 (2) The department shall supervise the administration  
13 of the inheritance ~~estate~~ tax laws and investigate such  
14 particular estates to which the inheritance ~~estate~~ tax laws  
15 apply throughout the various counties of the state and cause  
16 to be made and filed in its office reports of such  
17 investigations, together with specific information and facts  
18 as to particular estates, that may seem to require special  
19 consideration and attention by the department of justice;  
20 but no information so acquired may, in advance of legal  
21 action, be disclosed to anyone except proper officials and  
22 persons interested in such estate."

23 Section 12. Section 72-16-207, MCA, is amended to  
24 read:

25 "72-16-207. Forms and blanks -- department to furnish.

1 The department of revenue shall prescribe such forms and  
2 prepare such blanks as may be necessary in inheritance  
3 ~~estate~~ tax proceedings, and such blanks shall be printed at  
4 the expense of the state and furnished to each district  
5 court or the clerk thereof upon the request of the judge or  
6 clerk thereof."

7 Section 13. Section 72-16-208, MCA, is amended to  
8 read:

9 "72-16-208. Powers and duties of department as to  
10 nonresident estates. The department of revenue shall also  
11 gather information and make investigations and reports  
12 concerning the estates of nonresident decedents within the  
13 provisions of the inheritance ~~estate~~ tax laws and shall  
14 especially investigate the probate and other records for  
15 such probable estates without ~~outside~~ the state and report  
16 thereon from time to time to the department of justice and  
17 to the proper district court for appropriate legal actions;  
18 but no information so acquired may, in advance of legal  
19 action, be disclosed to anyone except proper officials and  
20 persons interested in such estate."

21 Section 14. Section 72-16-210, MCA, is amended to  
22 read:

23 "72-16-210. Duty of justice department. The department  
24 of justice shall carry out and enforce the recommendations  
25 and directions of the department of revenue in all matters



1 pertaining to the conduct of inheritance estate tax  
2 affairs."

3 Section 15. Section 72-16-211, MCA, is amended to  
4 read:

5 "72-16-211. Public administrator -- duty to  
6 investigate concerning tax -- compensation generally. (1) It  
7 shall be the duty of the public administrator, under the  
8 general supervision of the department of revenue and with  
9 the assistance of the county attorney, when required by the  
10 department or district judge, to investigate the estates of  
11 deceased persons within his county and to appear for and act  
12 in behalf of the county and state in the district court in  
13 such estates as the court may in its discretion deem  
14 necessary.

15 (2) For such services the public administrator shall  
16 be entitled to 5% of the ~~gross-inheritance~~ estate tax as  
17 determined in each such estate, to be paid by the county  
18 treasurer out of the inheritance estate tax funds upon an  
19 order of the district judge, provided that the minimum fee  
20 for each such estate shall not be less than \$5 and that it  
21 shall not exceed \$25; but in cases of unusual difficulty in  
22 estates of resident decedents where the tax exceeds \$500,  
23 the district judge may allow the public administrator such  
24 additional compensation as he may deem just and reasonable."

25 Section 16. Section 72-16-212, MCA, is amended to

1 read:

2 "72-16-212. Power of public administrator or other to  
3 seek administration when no application made. When no  
4 application for administration of the estate of any deceased  
5 person is made within 6 months after the demise of such  
6 person and such estate appears to come under the provisions  
7 of the inheritance estate tax laws or when administration  
8 has been completed without determining the tax, the public  
9 administrator of the proper county or any person interested  
10 in such estate may make application for such special or  
11 general administration as may be necessary for the purpose  
12 of the adjustment and payment of such tax, if any, or if no  
13 tax is due, for an order determining that fact."

14 Section 17. Section 72-16-214, MCA, is amended to  
15 read:

16 "72-16-214. Public administrator -- compensation under  
17 special provisions. In cases arising under 72-16-212 and  
18 ~~72-16-213~~, the public administrator, if appointed such  
19 special administrator, shall be entitled in the discretion  
20 of the court to the fees allowed by law to administrators or  
21 to other reasonable compensation, unless it be found that no  
22 tax is due."

23 Section 18. Section 72-16-215, MCA, is amended to  
24 read:

25 "72-16-215. County treasurer -- monthly report --

1 payment of collections to department -- interest on unpaid  
 2 amounts. On or before the fifth day of each month, each  
 3 county treasurer shall make a report under oath to the  
 4 department of revenue listing all payments received by him  
 5 under the inheritance ~~estate~~ tax laws during the preceding  
 6 month and stating for what estate, by whom, and when paid.  
 7 The form of such report shall be prescribed by the  
 8 department. He shall at the same time pay the department all  
 9 the payments received by him under the inheritance ~~estate~~  
 10 tax laws and not previously paid to the department, and for  
 11 all such payments collected by him and not paid to the  
 12 department within 5 days from the time herein required, he  
 13 shall pay interest at the rate of 10% per annum."

14 Section 19. Section 72-16-317, MCA, is amended to  
 15 read:

16 "72-16-317. Credit allowance on inheritance taxes paid  
 17 to other states. The tax imposed by this ~~part--and--part--9~~  
 18 ~~chapter~~ shall, as to a resident of the state of Montana who  
 19 died domiciled in Montana, be credited with the amount of  
 20 any valid inheritance, estate, legacy, or succession taxes  
 21 actually paid to any state or territory of the United States  
 22 (other than the state of Montana) or to the District of  
 23 Columbia. However, the amount to be so credited shall in no  
 24 event exceed that amount which the resident decedent was  
 25 taxed on that property in Montana."

1 Section 20. Section 72-16-431, MCA, is amended to  
 2 read:

3 "72-16-431. Tax -- when due and payable. All taxes  
 4 imposed by ~~parts-1-through-8~~ part 9 shall be due and payable  
 5 at the time of the death of the decedent, ~~--except-as~~  
 6 ~~hereinafter-provided."~~

7 Section 21. Section 72-16-441, MCA, is amended to  
 8 read:

9 "72-16-441. Interest on overdue payments. (1) If such  
 10 ~~the estate~~ tax is not paid within 18 months of the death of  
 11 the decedent, interest shall be charged and collected  
 12 thereon at the rate of 10% a year from the time the tax  
 13 accrued, unless because of claims made upon the estate,  
 14 necessary litigation, or other unavoidable cause of delay  
 15 the tax is not determined and paid as herein provided, in  
 16 which case interest at the rate of 6% shall be charged upon  
 17 such tax from the accrual thereof until the cause of such  
 18 delay is removed, after which time 10% shall be charged.

19 (2) Litigation to defeat the payment of the tax is not  
 20 necessary litigation.

21 (3) When permission has been granted to defer payment  
 22 of tax under ~~72-16-438~~ 72-16-910, interest shall be charged  
 23 at the rate of 6% after 1 year from the date of death until  
 24 the date of payment thereof."

25 Section 22. Section 72-16-443, MCA, is amended to

1 read:

2 "72-16-443. Collection of unpaid taxes. (1) If any  
3 county treasurer, the state treasurer, or the department of  
4 revenue has reason to believe that any tax is due and unpaid  
5 under the provisions of ~~parts 1 through 8~~ part 2, after the  
6 refusal or neglect of any person liable therefor to pay the  
7 same, he or it shall notify the attorney general in writing  
8 of such failure or neglect; and the attorney general, if he  
9 has probable cause to believe that such tax is due and  
10 unpaid, shall apply to the district court for a citation  
11 citing the person liable to pay such tax to appear before  
12 the court on the day specified, not more than 3 months from  
13 the date of such citation, and show cause why the tax should  
14 not be paid.

15 (2) The judge of the district court, upon such  
16 application and whenever it appears to him that any such tax  
17 accruing under ~~parts 1 through 8~~ part 2 has not been paid as  
18 required by law, shall issue such citation. The service of  
19 such citation and the time, manner, and proof thereof and  
20 the hearing and determination thereof shall conform as near  
21 as may be to the provisions of the laws governing probate  
22 practice of this state.

23 (3) Whenever it appears that any such tax is due and  
24 payable and the payment thereof cannot be enforced under the  
25 provisions of ~~parts 1 through 8~~ this chapter in such

1 district court, the person or corporation from whom the same  
2 is due is hereby made liable to the state for the amount of  
3 such tax; and the attorney general, in the name of the  
4 state, shall sue for and enforce the collection of such tax,  
5 and the county attorney of the county shall appear for and  
6 act on behalf of any county treasurer who is cited to appear  
7 before any district court under the provisions of ~~parts 1~~  
8 through 8 this chapter."

9 Section 23. Section 72-16-452, MCA, is amended to  
10 read:

11 "72-16-452. Deferred payment for transfer of closely  
12 held business interest. (1) ~~If Subject to subsection (3), if~~  
13 the value of an interest in a closely held business that is  
14 taxable under Title 72, chapter 16, ~~part 3, as a transfer~~  
15 ~~from a decedent who was at the time of death a resident of~~  
16 ~~this state~~ exceeds 65% of the adjusted gross estate, the  
17 personal representative may elect to pay all or part of the  
18 tax imposed by Title 72, chapter 16, ~~part 3~~ in 2 or more  
19 but less than 11 equal installments.

20 (2) The maximum amount of tax that may be paid in  
21 installments by each beneficiary is an amount that bears the  
22 same ratio to the tax imposed by Title 72, chapter 16, ~~part~~  
23 ~~3~~ as the closely held business amount passing to the  
24 beneficiary bears to the clear market value of all property  
25 passing to the beneficiary, without reduction for the

1 federal estate tax due or paid.

2 (3) If an election is made under (1) of this section,  
3 the ~~first installment must be paid on or before a date~~  
4 ~~selected by the personal representative that is not more~~  
5 ~~than 5 years after the date prescribed by 72-16-441 for the~~  
6 ~~payment of tax without interest, if, however, a credit is~~  
7 ~~claimed on the federal estate tax return for state death~~  
8 ~~taxes on the estate under the provisions of section 2011(f)~~  
9 ~~of the Internal Revenue Code, as amended, an amount of~~  
10 ~~inheritance tax due equal to the federal credit Montana~~  
11 ~~estate tax~~ must be paid within the period established in  
12 section 2011(c) of the Internal Revenue Code, as amended.  
13 Each ~~succeeding installment must be paid on or before the~~  
14 ~~date that is 1 year after the date of the preceding~~  
15 ~~installment. The department may for reasonable cause extend~~  
16 ~~the time for payment of any installment under this section,~~  
17 ~~including any part of an additional tax prorated to any~~  
18 ~~installment, for a reasonable period but not beyond the date~~  
19 ~~that is 12 months after the due date for the last~~  
20 ~~installment.~~

21 (4) If an election is made under (1) of this section,  
22 the tax due may not be further deferred under the provisions  
23 of 72-16-438 72-16-910."

24 Section 24. Section 72-16-453, MCA, is amended to  
25 read:

1 "72-16-453. Closely held business defined --  
2 qualification. (1) For the purposes of 72-16-452, the term  
3 "interest in a closely held business" means:

4 (a) an interest as a proprietor in a trade or business  
5 carried on as a proprietorship;

6 (b) an interest as a partner in a partnership carrying  
7 on a trade or business if:

8 (i) 20% or more of the total capital interest in the  
9 partnership is taxable under Title 72, chapter 16, ~~part 3,~~  
10 ~~as a transfer from the decedent;~~ or

11 (ii) the partnership had 15 or fewer partners;

12 (c) stock in a corporation carrying on a trade or  
13 business if:

14 (i) 20% or more in value of the voting stock of the  
15 corporation is taxable under Title 72, chapter 16, ~~part 3,~~  
16 ~~as a transfer from the decedent;~~ or

17 (ii) the corporation had 15 or fewer shareholders.

18 (2) Determination for qualification under (1) of this  
19 section must be made as of the time immediately before the  
20 decedent's death.

21 (3) Stock or a partnership interest held by a husband  
22 and wife as joint tenants or tenants in common is treated as  
23 owned by one shareholder or one partner, as the case may be.

24 (4) Property owned directly or indirectly by or for a  
25 corporation, partnership, estate, or trust is considered as

1 being owned proportionately by or for its shareholders,  
2 partners, or beneficiaries. For the purposes of this  
3 subsection, a person is a beneficiary of a trust only if he  
4 has a present interest in the trust.

5 (5) All stock and all partnership interests held by  
6 the decedent or by any member of his family within the  
7 meaning of section 267(c)(4) of the Internal Revenue Code is  
8 treated as being owned by the decedent."

9 Section 25. Section 72-16-455, MCA, is amended to  
10 read:

11 "72-16-455. Partnership interests and stock not  
12 readily tradable. (1) If the personal representative elects  
13 the benefits of this section, at such time and in such  
14 manner as the department may prescribe:

15 (a) for the purposes of subsection (1)(b)(i) or  
16 (1)(c)(i) of 72-16-453, whichever is appropriate, and for  
17 the purposes of 72-16-456, any capital interest in a  
18 partnership and any nonreadily tradable stock, which after  
19 the application of subsections (2) through (5) of 72-16-453  
20 is treated as owned by the decedent, shall be treated as  
21 taxable under Title 72, chapter 16, ~~part-3~~, in determining  
22 the value of ~~a transfer from the decedent of the estate~~; and

23 (b) the personal representative shall be treated as  
24 having selected under 72-16-452(3) the date prescribed by  
25 72-16-441 for the payment of the tax without interest; and

1 ~~(c) section 72-16-461 does not apply.~~

2 (2) For the purposes of this section, "nonreadily  
3 tradable stock" means stock for which at the time of the  
4 decedent's death there was no market on the stock exchange  
5 or in an over-the-counter market."

6 Section 26. Section 72-16-456, MCA, is amended to  
7 read:

8 "72-16-456. Interests in more than one closely held  
9 business. (1) Interests in two or more closely held  
10 businesses, with respect to which there is taxable under  
11 Title 72, chapter 16, ~~part-3~~, as a transfer from the  
12 decedent more than 20% of the total value of each business,  
13 shall be treated as an interest in a single closely held  
14 business.

15 (2) For the purposes of the 20% requirement of (1) of  
16 this section, an interest in a closely held business that  
17 represents the surviving spouse's interest in property held  
18 by the decedent and the surviving spouse as joint tenants or  
19 tenants in common shall be treated as taxable under Title  
20 72, chapter 16, ~~part-3~~, in determining the value of a  
21 ~~transfer from the decedent~~ decedent's estate."

22 Section 27. Section 72-16-458, MCA, is amended to  
23 read:

24 "72-16-458. Proration of any additional tax when  
25 election made. (1) If an election is made under 72-16-452 to

1 pay any part of the tax imposed by Title 72, chapter 16,  
2 ~~part-3~~, in installments and an additional tax is determined,  
3 the additional tax, subject to the limitation provided by  
4 72-16-452(2), shall be prorated to the installments payable  
5 under 72-16-452.

6 (2) (a) The part of the additional tax so prorated to  
7 any installment, the date for payment of which has not  
8 arrived, shall be collected at the same time as and as part  
9 of the installment.

10 (b) The part of the additional tax so prorated to any  
11 installment already paid shall be paid on notice and demand  
12 from the department.

13 (3) This section does not apply if the additional tax  
14 is due to negligence, intentional disregard of rules, or  
15 fraud with intent to evade tax."

16 Section 28. Section 72-16-459, MCA, is amended to  
17 read:

18 "72-16-459. Election of deferral as to additional tax.

19 (1) If an additional tax is determined under Title 72,  
20 chapter 16, ~~part-3~~ and the estate qualifies under 72-16-452  
21 and the personal representative has not made an election  
22 under 72-16-452, the personal representative may elect to  
23 pay the additional tax in installments.

24 (2) An election under this section must be made not  
25 later than 60 days after notice and demand for payment of

1 the additional tax has been given by the department and must  
2 be made in the manner prescribed by the department.

3 (3) If an election is made under this section, the  
4 additional tax shall, subject to the limitation in  
5 72-16-452(2), be prorated to the installments that would  
6 have been due if an election had been timely made under  
7 72-16-452. The part of the additional tax so prorated to any  
8 installment the date for payment of which would have arrived  
9 shall be paid at the time of the making of the election  
10 under this section. The portion of the additional tax  
11 prorated to installments, the date for payment of which  
12 would not have so arrived, shall be paid at the time such  
13 installments would have been due if such an election had  
14 been made."

15 Section 29. Section 72-16-461, MCA, is amended to  
16 read:

17 "72-16-461. Interest required when payment deferred --  
18 rate. (1) If the time for payment of an amount of tax  
19 imposed by Title 72, chapter 16, ~~part--3~~ is extended as  
20 provided in 72-16-452 interest on the 4% portion of such  
21 amount shall, in lieu of the annual rate provided by  
22 72-16-441, be paid at the rate of 4%. For the purposes of  
23 this section, the amount of any additional tax that is  
24 prorated to installments payable under 72-16-459 shall be  
25 treated as an amount of tax payable in installments under

1 that section.

2 (2) For the purposes of this section, "4% portion"  
3 means the lesser of:

4 (a) \$345,800; or

5 (b) the amount of the tax imposed by Title 72, chapter  
6 16, ~~part-3~~ which is extended as provided in 72-16-452.

7 (3) If the amount of tax imposed by Title 72, chapter  
8 16, ~~part--3~~ that is extended exceeds the 4% portion, any  
9 payment of a portion of such amount shall, for the purpose  
10 of computing interest for periods after such payment, be  
11 treated as reducing the 4% portion by an amount that bears  
12 the same ratio to the amount of such payment as the amount  
13 of the 4% portion, determined without regard to this  
14 section, bears to the amount of tax that is extended as  
15 provided in 72-16-452."

16 Section 30. Section 72-16-465, MCA, is amended to  
17 read:

18 "72-16-465. Effect of payment deferral on statute of  
19 limitations. The running of the period of limitations for  
20 collection of any tax imposed by Title 72, chapter 16, ~~part~~  
21 ~~3~~ is suspended for the period of any extension of time for  
22 payment granted under 72-16-452."

23 Section 31. Section 72-16-471, MCA, is amended to  
24 read:

25 "72-16-471. Definitions for lien on deferred tax

1 purposes. As used in 72-16-471 through 72-16-482, the  
2 following definitions apply:

3 (1) "Deferral period" means the period for which the  
4 payment of tax is deferred under 72-16-452.

5 (2) "Deferred amount" means the aggregate amount  
6 deferred under 72-16-452 determined as of the date  
7 prescribed by 72-16-441 for payment without interest of the  
8 tax imposed by Title 72, chapter 16, ~~part-3~~.

9 (3) "Lien property" means interests in real and other  
10 property to the extent such interests can be expected to  
11 survive the deferral period and are designated in the  
12 agreement referred to in 72-16-474.

13 (4) "Required interest amount" means the aggregate  
14 amount of interest that will be payable over the first 4  
15 years of the deferral period with respect to the deferred  
16 amount determined as of the date prescribed for payment  
17 without interest of the tax imposed by Title 72, chapter 16, ~~part-3~~.  
18 "

19 Section 32. Section 72-16-502, MCA, is amended to  
20 read:

21 "72-16-502. Determination and payment of tax when no  
22 personal representative -- procedure. (1) For the purposes  
23 of this section, a decedent is one who dies leaving no  
24 property which requires the appointment of a personal  
25 representative and:

1 (a) was the owner of a life estate which terminated at  
2 his death;

3 (b) was the owner of property with another or others  
4 as a joint tenant with right of survivorship and not as a  
5 tenant in common; or

6 (c) was the owner of any other interest in property  
7 requiring the determination of inheritance ~~estate~~ tax  
8 ~~because-of-his-death.~~

9 (2) Upon the death of a decedent, a remainderman,  
10 surviving joint tenant, or other interested party shall file  
11 with the department of revenue:

12 (a) a copy of the death certificate;

13 (b) a verified application in a form prescribed by the  
14 department containing such information as the department  
15 considers necessary; and

16 (c) evidence of the instruments which created the life  
17 estate, joint tenancy, or other interest requiring  
18 determination of inheritance ~~estate~~ tax, if required by the  
19 department.

20 (3) Upon receipt of the application, the department  
21 shall:

22 (a) stamp the filing date upon the application;

23 (b) issue a certificate showing the inheritance ~~estate~~  
24 tax due, if any;

25 (c) affix the certificate to a certified copy of the

1 application and return the same to the applicant or his  
2 attorney; and

3 (d) affix a copy of the certificate to the original  
4 application and keep it on file with the department.

5 (4) The applicant shall pay the inheritance ~~estate~~ tax  
6 determined to the county treasurer for transmittal to the  
7 state treasurer. The county treasurer shall issue a receipt  
8 for the payment of the tax.

9 ~~(5) If disputes arise as to tax computation, they~~  
10 ~~shall be resolved as provided under the laws applicable to~~  
11 ~~the determination of inheritance taxes in estates."~~

12 Section 33. Section 72-16-503, MCA, is amended to  
13 read:

14 "72-16-503. Additional filings required when real  
15 property involved and no representative -- release of lien.

16 (1) If an interest in real property is involved under  
17 72-16-502, the applicant shall file with the clerk and  
18 recorder of each county in which the real property or any  
19 part thereof is located:

20 (a) a certified copy of the application referred to in  
21 subsection (2)(b) of 72-16-502;

22 (b) the certificate from the department of revenue  
23 determining inheritance ~~estate~~ tax, if any;

24 (c) the receipt from the county treasurer showing the  
25 inheritance ~~estate~~ tax has been paid.



1 (2) The filing of the documents under subsection (1)  
2 constitutes release of any lien for inheritance estate  
3 taxes."

4 Section 34. Section 72-16-504, MCA, is amended to  
5 read:

6 "72-16-504. Determination and payment of tax when  
7 personal representative appointed -- procedure. If a  
8 decedent dies leaving property which requires the  
9 appointment of a personal representative and was also an  
10 owner of property as described in 72-16-502(1), the  
11 remainderman, surviving joint tenant, personal  
12 representative, or other interested party may have the  
13 inheritance estate tax determined and the joint tenancy  
14 terminated or ownership transferred as provided in 72-16-501  
15 through 72-16-503 by filing with the department:

16 (1) the information listed in 72-16-502(2); and

17 (2) the name of the county of administration or  
18 probate and the court file number."

19 Section 35. Section 72-16-902, MCA, is amended to  
20 read:

21 "72-16-902. Applicability of other tax provisions. The  
22 provisions of parts 1 through 8 relating to the tax on  
23 inheritances and transfers shall apply to the taxes imposed  
24 by this part, insofar as the same are applicable and not in  
25 conflict with the provisions hereof."

1 Section 36. Section 72-16-903, MCA, is amended to  
2 read:

3 "72-16-903. Taxable situs of property. For the purpose  
4 of this tax, the taxable situs of property shall be the same  
5 as the taxable situs for inheritance tax purposes is in  
6 this state when:

7 (1) the property is transferred by will or by the  
8 intestate law of this state from any person dying possessed  
9 of the property while a resident of this state; or

10 (2) the property is within this state and is  
11 transferred by will or intestate law of this state and the  
12 decedent was a nonresident of the state at the time of this  
13 death."

14 Section 37. Section 72-16-904, MCA, is amended to  
15 read:

16 "72-16-904. Estate tax imposed. In addition to the  
17 inheritance taxes hereinabove imposed, an an estate tax is  
18 hereby imposed upon the transfer of the estate of every  
19 decedent leaving an estate which is subject to the federal  
20 estate tax imposed by the United States of America under the  
21 applicable provisions of the Internal Revenue Code and which  
22 has, in whole or in part, a taxable situs in this state."

23 Section 38. Section 72-16-905, MCA, is amended to  
24 read:

25 "72-16-905. Estate tax -- how computed. The tax hereby

1 imposed upon the transfer of each such estate shall be equal  
 2 to the maximum tax credit allowable for state death taxes  
 3 against the federal estate tax imposed with respect to the  
 4 portion of the decedent's estate having a taxable situs in  
 5 this state, ~~less the inheritance taxes, if any, due this~~  
 6 ~~state,~~ it being the purpose and intent of this part to  
 7 impose only such additional taxes hereunder as may be  
 8 necessary to give this state the full benefit of the maximum  
 9 tax credit allowable against the federal estate tax imposed  
 10 with respect to a decedent's estate which has a taxable  
 11 situs in this state. If only a portion of a decedent's  
 12 estate has a taxable situs in this state, such maximum tax  
 13 credit shall be determined by multiplying the entire amount  
 14 of the credit allowable against the federal estate tax for  
 15 state death taxes by the percentage which the value of the  
 16 portion of the decedent's estate which has a taxable situs  
 17 in this state bears to the value of the entire estate."

18 Section 39. Section 72-16-907, MCA, is amended to  
 19 read:

20 \*72-16-907. Department to determine tax -- rehearing  
 21 and appeal. (1) The department of revenue shall enter an  
 22 order determining ~~such the~~ state estate tax and the amount  
 23 thereof so due and payable.

24 (2) (a) Any person in interest aggrieved by ~~such the~~  
 25 determination ~~shall have the same right to apply for~~

1 ~~district court determination and of rehearing and appeal as~~  
 2 ~~is now provided for in the determination of inheritance~~  
 3 ~~taxes. may, within 60 days after the determination is made,~~  
 4 ~~appeal the determination to the appropriate district court~~  
 5 ~~by serving upon the department his objections to the~~  
 6 ~~determination and by filing the notice, after serving it in~~  
 7 ~~the office of the clerk of the district court.~~

8 (b) ~~The court shall set a day for hearing the appeal~~  
 9 ~~upon 10 days' notice to all interested parties and, at the~~  
 10 ~~time and place set, shall hear the appeal upon all papers~~  
 11 ~~and records that are properly presented before it and, as~~  
 12 ~~soon as possible thereafter, shall issue its order~~  
 13 ~~determining the amount of the estate tax, if it finds a tax~~  
 14 ~~to be due."~~

15 Section 40. Repealer. Sections 35-21-422, 72-16-202,  
 16 72-16-209, 72-16-213, 72-16-218, 72-16-301 through  
 17 72-16-308, 72-16-311 through 72-16-316, 72-16-318,  
 18 72-16-319, 72-16-321, 72-16-322, 72-16-331 through  
 19 72-16-342, 72-16-401 through 72-16-403, 72-16-411 through  
 20 72-16-425, 72-16-432 through 72-16-440, 72-16-442,  
 21 72-16-480, 72-16-491 through 72-16-493, 72-16-701 through  
 22 72-16-706, 72-16-801 through 72-16-805, and 72-16-902, MCA,  
 23 are repealed.

24 Section 41. Applicability. This act applies to estates  
 25 of decedents dying after the effective date of this act.

1 *Meyer* HOUSE BILL NO. 292  
 2 INTRODUCED BY *Wesley Bertelsen* *Schultz* *Falge*  
 3 *Kropp* *Wittwer* *Hamm* *Winkler* *3* *HARP*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA  
 5 INHERITANCE TAX AND AMENDING THOSE SECTIONS THAT APPLY TO  
 6 THE ADMINISTRATION OF BOTH THE INHERITANCE TAX AND THE  
 7 ESTATE TAX; AMENDING SECTIONS 15-1-502, 15-1-503, 72-3-631,  
 8 72-3-807, 72-3-1006, 72-3-1104, 72-4-304, 72-14-303,  
 9 72-15-101, 72-15-102, 72-16-201, 72-16-207, 72-16-208,  
 10 72-16-210 THROUGH 72-16-212, 72-16-214, 72-16-215,  
 11 72-16-317, 72-16-431, 72-16-441, 72-16-443, 72-16-452,  
 12 72-16-453, 72-16-455, 72-16-456, 72-16-458, 72-16-459,  
 13 72-16-461, 72-16-465, 72-16-471, 72-16-502 THROUGH  
 14 72-16-534, 72-16-902 THROUGH 72-16-905, 72-16-907, MCA;  
 15 REPEALING SECTIONS 35-21-422, 72-16-202, 72-16-209,  
 16 72-16-213, 72-16-218, 72-16-301 THROUGH 72-16-308, 72-16-311  
 17 THROUGH 72-16-316, 72-16-318, 72-16-319, 72-16-321,  
 18 72-16-322, 72-16-331 THROUGH 72-16-342, 72-16-401 THROUGH  
 19 72-16-403, 72-16-411 THROUGH 72-16-425, 72-16-432 THROUGH  
 20 72-16-440, 72-16-442, 72-16-480, 72-16-491 THROUGH  
 21 72-16-493, 72-16-701 THROUGH 72-16-706, 72-16-801 THROUGH  
 22 72-16-805, AND 72-16-902, MCA; AND PROVIDING FOR AN  
 23 APPLICABILITY DATE."  
 24  
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 15-1-502, MCA, is amended to read:  
 2 "15-1-502. Suspense account for receipts and refunds.  
 3 The department of revenue shall establish a suspense account  
 4 in the state treasury for the purpose of conveniently  
 5 processing receipts and for paying refunds for overpayments  
 6 of inheritance-taxes-collected-by-county-treasurers-and-all  
 7 other taxes collected by the department. All moneys received  
 8 by the department shall be temporarily credited by the state  
 9 treasurer to the department's suspense account. Each month  
 10 the department of revenue shall send to the department of  
 11 administration a distribution sheet designating the amount  
 12 to be deposited in each treasury fund and in each account."  
 13 Section 2. Section 15-1-503, MCA, is amended to read:  
 14 "15-1-503. Refund of overpayment -- procedure. (1)  
 15 When there has been an overpayment of the-inheritance-tax  
 16 collected-by-county-treasurers-or any other tax collected by  
 17 the department of revenue and there is no law providing for  
 18 a refund, the department shall refund the amount of the  
 19 overpayment to the taxpayer, plus any interest and penalty  
 20 due the taxpayer, as provided in subsection (2) of this  
 21 section.  
 22 (2) No refund or payment shall be allowed unless a  
 23 claim is filed by the taxpayer before the expiration of 5  
 24 years from the time the tax was paid. Within 6 months after  
 25 the claim is filed, the department shall examine the claim

There are no changes in HB 292, and due to length will not be rerun. Please refer to yellow copy for complete text.

-2- THIRD READING  
 HB 292