

SENATE BILL NO. 255

INTRODUCED BY TURNAGE, HAMMOND, HAZELBAKER, KOLSTAD, SEIFERT, ANDREASON, MOORE, REGAN, BLAYLOCK, CONROY, M. ANDERSON, ZABROCKI, NELSON, C. SMITH, KEATING, NORDTVEDT, HEMSTAD, STIMATZ, BERG, JACOBSON, BOYLAN, HEALY, DONALDSON, NORMAN, CONOVER, HALLIGAN, HAFFEY, HIMSL, BURNETT, FAGG, SPILKER, THOPT, FABREGA, KROPP, O'CONNELL, MANUEL, LUND, KITSELMAN, MUELLER, ERNST, SIVERTSEN, VINCENT, OBERG, BENCTSON, MARKS, HARP, SALES, CURTISS, CONN, BENNETT, R. ANDERSON, ELLIOTT, GOODOVER, S. BROWN, GALT, MAZUREK, VAN VALKENBURG, THOMAS, ARLESTAD, GRAHAM, ETCHART, STEPHENS, MEYER, B. BROWN, TVEIT, McCALLUM, OCHSNER, DOVER, RAGER, MANLEY, WILLIAMS, STOBIE, SCHULTZ, IVERSON, KEYSER, BERGENE, PHILLIPS, EUDAILY, MATSKO, BRIGGS, OLSON, J. O'HARA, CRIPPEN, SEVERSON, TOWE, E. SMITH, HAFFERMAN, STORY, ROBBINS, HART, McLANE, MENAHAN, HANNAH, WINSLOW, RYAN, LORY, HANSON, SWITZER, DEVLIN, WALLIN, JOHNSON, LEE, D. MANNING

IN THE SENATE

January 23, 1981	Introduced and referred to Committee on Taxation.  Fiscal note requested.
January 29, 1981	Fiscal note returned.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 18, 1981	Introduced and referred to Committee on Taxation.
March 18, 1981	Committee recommend bill be concurred in. Report adopted.

March 19, 1981

Motion pass consideration.

March 20, 1981

Second reading, concurred in  
as amended.

March 23, 1981

Third reading, concurred in  
as amended. Ayes, 93; Noes, 6.

#### IN THE SENATE

March 23, 1981

Returned from House with  
amendments.

March 24, 1981

Second reading, amendments  
concurred in.

March 25, 1981

Third reading, amendments  
concurred in. Ayes, 50; Noes, 0.  
Sent to enrolling.

Reported correctly enrolled.

*Wright*  
*Gene Ott*  
*Selec*  
*Alison*  
*Conn*  
*Bennett*  
*Amerson*  
*Heating*  
*Elliot*  
*Smith*  
**BILL NO. 25 NELSON**  
 INTRODUCED BY *Terrence* *Andrew* *Robert*  
 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE *Mark*  
 AKLESTAD *Ernest* STEPHENS *Lee*  
 BOB BROWN *Toni* McBallanus *Debra*  
 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE CERTAIN  
 TAXES FOR LINEAL DESCENDANTS; AMENDING SECTIONS 72-16-313  
 AND 72-16-321, MCA."  
 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 Section 1. Section 72-16-313, MCA, is amended to read:  
 "72-16-313. Exemptions of spouse and other relatives.  
 (1) The clear value of all property distributed or passing  
 to decedent's surviving spouse is exempt.  
 (2) The clear value of all property distributed or  
 passing to the following amounts-ere is exempt:  
 (a) property of the clear value of \$15,000 transferred  
 to  
 (i) each minor lineal issue of the decedent any  
 child or lineal descendant of the decedent. A determination  
 as to establishment of the parent and child relationship or  
 establishment of a person as a lineal descendant must be  
 made in accordance with the rules for determining  
 relationship for purposes of intestate succession under  
 Title 72, chapter 2, part 2.  
 (ii) any minor child adopted as such in conformity with

1 tax  
 2 (iii) (b) any minor child to whom such decedent for not  
 3 less than 10 years prior to such transfer stood in the  
 4 mutually acknowledged relation of a parent, provided such  
 5 relationship began at or before the child's 15th birthday  
 6 and was continuous for 10 years or  
 7 (iv) any minor lineal issue of such adopted or mutually  
 8 acknowledged child; and  
 9 (b) (3) The following amounts are exempt:  
 10 (a) property of the clear value of \$7,000 transferred  
 11 to each of the lineal issue who have attained majority and  
 12 to each of the other persons who have attained majority  
 13 described in 72-16-321(1)(i) and  
 14 (3) (b) Property property of the clear value of \$1,000  
 15 transferred to each of the persons described in 72-16-321(2)  
 16 is exempt."  
 17 Section 2. Section 72-16-321, MCA, is amended to read:  
 18 "72-16-321. Primary rates -- amount remaining after  
 19 exemptions not in excess of twenty-five thousand dollars.  
 20 The exemptions allowed by 72-16-311 through 72-16-316 shall  
 21 be subtracted from the total value of property or beneficial  
 22 interests transferred to any person, institution,  
 23 association, corporation, or political entity by the  
 24 decedent. A tax is imposed upon the first \$25,000 in value  
 25 of the remaining amount of the total value of property or

1 beneficial interests at the following rates:

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

5 ~~(a) the nearest issue or the~~ lineal ancestor of the  
6 decedent;

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

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

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

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

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

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

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

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

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

7 (c) a body politic or corporate."

-End-

## STATE OF MONTANA

REQUEST NO. 214-81

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 255 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to eliminate certain taxes for lineal descendants.

Assumptions

1. Estimated impact of the proposed legislation if it were in effect for FY 1980 - \$2.0 million decrease in inheritance tax revenues.
2. The fiscal impact should be approximately \$2.0 million in both FY 1982 and FY 1983.
3. The full effect of this bill will not be felt until FY 1984, since inheritance taxes are generally not paid until 18 months after the death (72-16-440, MCA).

Fiscal Impact

	<u>FY 1982</u>	<u>FY 1983</u>
Inheritance Tax		
Under current law	\$6,750,000	\$7,000,000
Under proposed law	<u>6,250,000</u>	<u>5,400,000</u>
Estimated Decrease	(\$ 500,000)	(\$1,600,000)
General Fund		
Under current law	\$6,750,000	\$7,000,000
Under proposed law	<u>6,250,000</u>	<u>5,400,000</u>
Estimated Decrease	(\$ 500,000)	(\$1,600,000)

Decrease for the Biennium - \$2,100,000

Long Range Effects

The proposed legislation should decrease revenues to the general fund by at least \$2.0 million for each subsequent fiscal year.

*David M Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-29-81

Approved by Committee  
on Taxation

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3 SEIFERT, ANDREASON, MOORE, REGAN, BLAYLOCK, CONROY,  
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18 HANNAH, WINSLOW, RYAN, LORY, HANSON, SWITZER,  
19 DEVLIN, HALLIN, JOHNSON, LEE, D. MANNING  
20 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE  
21  
22 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE CERTAIN  
23 TAXES FOR LINEAL DESCENDANTS; AMENDING SECTIONS 72-16-313  
24 AND 72-16-321, MCA; PROVIDING APPLICABILITY; AND PROVIDING  
25 AN IMMEDIATE EFFECTIVE DATE."

1  
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
3 Section 1. Section 72-16-313, MCA, is amended to read:  
4 "72-16-313. Exemptions of spouse and other relatives.  
5 (1) The clear value of all property distributed or passing  
6 to decedent's surviving spouse is exempt.  
7 (2) The clear value of all property distributed or  
8 passing to the following amounts-are is exempt:  
9 ~~(a)--property-of-the-clear-value-of-\$15,000-transferred~~  
10 ~~to:~~  
11 ~~(i)(a) each minor-lineal-issue-of--the--decedent; any~~  
12 ~~child or lineal descendant of the decedent. A determination~~  
13 ~~as to establishment of the parent and child relationship or~~  
14 ~~establishment of a person as a lineal descendant must be~~  
15 ~~made in accordance with the rules for determining~~  
16 ~~relationship for purposes of intestate succession under~~  
17 ~~Title 72, chapter 2, part 2.~~  
18 ~~(ii)-any-minor-child-adopted-as-such-in-conformity-with~~  
19 ~~law~~  
20 ~~(iii)(b) any minor child to whom such decedent for not~~  
21 ~~less than 10 years prior to such transfer stood in the~~  
22 ~~mutually acknowledged relation of a parent, provided such~~  
23 ~~relationship began at or before the child's 15th birthday~~  
24 ~~and was continuous for 10 years-er.~~  
25 ~~(iv)-any-minor-lineal-issue-of-such-adopted-or-mutually~~

1 ~~acknowledged child and~~

2 ~~(b)(3) The following amounts are exempt:~~

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

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

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

11 "72-16-321. Primary rates -- amount remaining after  
 12 exemptions not in excess of twenty-five thousand dollars.  
 13 The exemptions allowed by 72-16-311 through 72-16-316 shall  
 14 be subtracted from the total value of property or beneficial  
 15 interests transferred to any person, institution,  
 16 association, corporation, or political entity by the  
 17 decedent. A tax is imposed upon the first \$25,000 in value  
 18 of the remaining amount of the total value of property or  
 19 beneficial interests at the following rates:

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

23 ~~(a) the lineal issue of the lineal ancestor of the~~  
 24 ~~decedent;~~

25 ~~(b) any child adopted as such in conformity with law~~

1 ~~or any child to whom such decedent for not less than 10~~  
 2 ~~years prior to such transfer stood in the mutually~~  
 3 ~~acknowledged relation of a parent provided such~~  
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 10 entitled to any beneficial interest in such property is:

11 (a) the brother or sister or a descendant of a brother  
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13 (b) a wife of a son or the husband of a daughter of  
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15 (3) at the rate of 6% of the clear value of the  
 16 interest in property passing to a person if the person  
 17 entitled to any beneficial interest in such property is the  
 18 uncle, aunt, or first cousin of the decedent;

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

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

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

25 (c) a body politic or corporate."

1        SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO  
2        ESTATES OF DECEDENTS DYING AFTER [THE EFFECTIVE DATE OF THIS  
3        ACT].

4        SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON  
5        PASSAGE AND APPROVAL.

-End-



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INTRODUCED BY TURNAGE, HAMMOND, HAZELBAKER, KOLSTAD,  
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(1) The clear value of all property distributed or passing to decedent's surviving spouse is exempt.

(2) The clear value of all property distributed or passing to the following amounts are is exempt:

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

~~(i) a~~ each minor lineal issue of the decedent any child or lineal descendant of the decedent. A determination as to establishment of the parent and child relationship or establishment of a person as a lineal descendant must be made in accordance with the rules for determining relationship for purposes of intestate succession under Title 72, chapter 2, part 2.

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

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

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 18 of the remaining amount of the total value of property or  
 19 beneficial interests at the following rates:

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 21 interest in property passing to a person if the person  
 22 entitled to any beneficial interest in such property is:

23 ~~(a) the lineal issue or the~~ lineal ancestor of the  
 24 decedent;

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 21 beneficial interest in such property is:

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

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

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1     SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO  
2     ESTATES OF DECEDENTS DYING AFTER [THE EFFECTIVE DATE OF THIS  
3     ACT].

4     SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON  
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 23 consanguinity than is hereinbefore stated;

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

25 (c) a body politic or corporate."

1        SECTION 3. APPLICABILITY. (THIS ACT) APPLIES TO  
2        ESTATES OF DECEDENTS DYING WHO DIED AFTER (THE-EFFECTIVE  
3        DATE-OF-THIS-ACT) DECEMBER 31, 1980.

4        SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE UPON  
5        PASSAGE AND APPROVAL.

-End-

House amendments to Senate Bill 255

1. Page 5, line 2.

Following: "DECEDENTS"

Strike: "DYING"

Insert: "who died"

Following: "AFTER"

Strike: "[THE EFFECTIVE DATE OF THIS ACT]"

Insert: "December 31, 1980"