

HOUSE BILL NO. 73

1/07 Introduced  
1/07 Referred to Taxation  
1/07 Fiscal Note Requested  
1/14 Fiscal Note Received  
1/17 Hearing  
Died in Committee

1                    HOUSE    BILL NO. 73  
2    INTRODUCED BY HOLLIDAY

3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FOR  
5    INHERITANCE TAX PURPOSES PROPERTY DISTRIBUTED OR PASSING TO  
6    A DECEDENT'S PARENT OR SIBLING; AMENDING SECTIONS 72-16-313  
7    AND 72-16-321, MCA; AND PROVIDING AN APPLICABILITY DATE AND  
8    AN IMMEDIATE EFFECTIVE DATE."

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

11            Section 1. Section 72-16-313, MCA, is amended to read:  
12            "72-16-313. Exemptions of spouse and other relatives.

13            (1) The clear value of all property distributed or passing  
14            to decedent's surviving spouse is exempt.

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

17            (a) any parent, child, or lineal descendant of the  
18            decedent. A determination as to establishment of the parent  
19            and child relationship or establishment of a person as a  
20            lineal descendant must be made in accordance with the rules  
21            for determining relationship for purposes of intestate  
22            succession under Title 72, chapter 2, part 2.

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

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

3            (c) any brother or sister of the decedent.

4            (3) The following amounts are exempt:

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

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

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 the  
23            lineal ancestor of the decedent, except as provided in  
24            72-16-313;

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



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

3 (a) ~~the-brother-or-sister-or~~ a descendant of a brother  
4 or sister of the decedent;

5 (b) a wife of a son or the husband of a daughter of  
6 the decedent;

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

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

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

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

17 (c) a body politic or corporate."

18 NEW SECTION. Section 3. Extension of authority. Any  
19 existing authority of the department of revenue to make  
20 rules on the subject of the provisions of this act is  
21 extended to the provisions of this act.

22 NEW SECTION. Section 4. Applicability. This act  
23 applies to taxable years beginning after December 31, 1984.

24 NEW SECTION. Section 5. Effective date. This act is  
25 effective on passage and approval.

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN002-85

Form BD-15

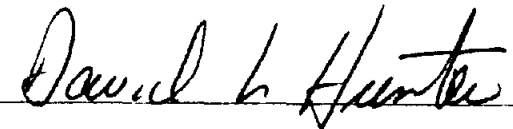
In compliance with a written request received January 8 19 85, there is hereby submitted a Fiscal Note for H.B. 73 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to exempt for inheritance tax purposes property distributed or passing to a decedent's parent or sibling and providing an applicability date and an immediate effective date.

ASSUMPTIONS

1. Approximately 57% of inheritance taxes are paid by brothers, sisters, and/or parents of the deceased since children and spouses are exempt from inheritance taxes.
2. Estimates for inheritance taxes in FY86 (\$6,656,000) and FY87 (\$7,072,000) are taken from the Budget and Program Planning Office.
3. On estates subject to Federal estate tax, Montana imposes a state estate tax. Montana estate tax is equal to the maximum tax credit allowed by the Federal code for state death taxes against the Federal estate tax less any Montana inheritance tax paid. Elimination of the Montana inheritance tax on estates passing to siblings increases the Montana estate tax liability of siblings. The number and size of estates involved cannot be forecast but it is estimated that the increase in state estate taxes may be \$1,000,000 which will partially offset the loss of state inheritance tax revenue.
4. It is assumed that only half of the impact will be felt in FY86 due to the time required to settle an estate and file a return.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: JAN 14, 1985

Request No. FNN002-85

Form BD-15

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EFFECT ON REVENUE

There are a number of variables which must be taken into account when working with this source of revenue. The time allowed for the completion of this note does not permit a thorough study of the data involved. Consequently, the estimate below, while the best which can be made under the circumstances, could vary significantly from actual impact.

	<u>Under</u> <u>Current Law</u>	<u>FY86</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Under</u> <u>Current Law</u>	<u>FY87</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
Inheritance Tax	\$ 6,656,000	\$ 4,759,040	(\$1,896,960)	\$ 7,072,000	\$ 4,040,960	(\$3,031,040)
TOTAL REVENUE	\$ 6,656,000	\$ 4,759,040	(\$1,896,960)	\$ 7,072,000	\$ 4,040,960	(\$3,031,040)

FUND INFORMATION

General Fund	\$ 6,656,000	\$ 4,759,040	(\$1,896,960)	\$ 7,072,000	\$ 4,040,960	(\$3,031,040)
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LONG-RANGE EFFECTS ON PROPOSED LEGISLATION

The proposal will make inheritance tax revenue much more erratic. Revenues will become more dependent of the number of large estates processed in future tax years.