

Senate BILL NO. 272

INTRODUCED BY

AKLESTAD

Thomas

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

Groffred

Walters V. Veltkamp

Stephen Foster Wilson

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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

"72-16-313. Exemptions of spouse and other relatives. (1) The clear value of all property distributed or passing to a decedent's surviving spouse is exempt.

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

(a) 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 1.

(b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or before the stepchild's 18th birthday~~ if, prior to death, the decedent and the child stood in the mutually acknowledged relationship of parent and child or stepparent and stepchild.

(3) The following amounts are exempt:

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

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

NEW SECTION. Section 2. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0272, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act extending the inheritance tax exemption for stepchildren; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The proposal is retroactive to January 1, 1995.
2. There is at least one case in which an assessment for inheritance tax would not have to be paid under the retroactive date of the proposal.
3. The proposal exempts stepchildren who have entered into the stepchild relationship after the age of eighteen from inheritance tax.

FISCAL IMPACT:

Expenditures:

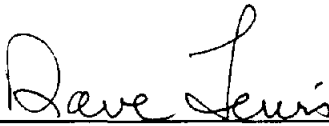
The proposal would require an increase in workload to process amended claims associated with the retroactive date of the proposal. The administrative cost for this additional workload would be absorbed by the department.

The proposal requires that the stepparent and stepchild relationship be mutually acknowledged. This could result in additional litigation in FY98 and FY99. The Department of Revenue has no data with which to estimate the administrative cost of this litigation.

Revenues:

The Department of Revenue has no data with which to estimate the loss of revenue in FY98 and FY99 under the proposal. The department does anticipate a substantial number of tax exempt claims under this proposal due to a large number of late in life marriages resulting in adult stepchildren. This would result in a substantial revenue loss associated with the claims of these adult stepchildren.

There would be a loss in revenue due to amended claims associated with the retroactive date of the proposal. The Department of Revenue does not have sufficient data to estimate the extent of these possible claims. There is a pending court case which would be resolved in favor of the claimant as a result of the retroactive date of this proposal. The value of this claim is \$75,000.

 2-6-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

GARY AKLESTAD, PRIMARY SPONSOR DATE
Fiscal Note for SB0272, as introduced

SB 272

1 SENATE BILL NO. 272

2 INTRODUCED BY AKLESTAD, CRIPPEN, LYNCH, DEVLIN, THOMAS, FOSTER, GROSFIELD, HALLIGAN,
3 VAN VALKENBURG, WILSON

4 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR
7 STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE ~~AND, A RETROACTIVE APPLICABILITY DATE, AN APPLICABILITY DATE, AND A TERMINATION~~
9 DATE ."

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

12
13 **Section 1.** Section 72-16-313, MCA, is amended to read:

14 **"72-16-313. Exemptions of spouse and other relatives.** (1) The clear value of all property
15 distributed or passing to a decedent's surviving spouse is exempt.

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

17 (a) any child or lineal descendant of the decedent. A determination as to establishment of the
18 parent and child relationship or establishment of a person as a lineal descendant must be made in
19 accordance with the rules for determining relationship for purposes of intestate succession under Title 72,
20 chapter 2, part 1.

21 (b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or~~
22 ~~before the stepchild's 18th birthday if, prior to death, the decedent and the child stood in the mutually~~
23 ~~acknowledged relationship of parent and child or stepparent and stepchild.~~

24 (3) The following amounts are exempt:

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

27 (b) property of the clear value of \$1,000 transferred to each of the persons described in
28 72-16-321(2)."

29
30 NEW SECTION. **Section 2. Retroactive applicability.** [This act] applies retroactively, within the

1 meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.

2

3 NEW SECTION. SECTION 3. TERMINATION -- APPLICABILITY. (1) [SECTION 1] TERMINATES
4 JULY 1, 1999.

5 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), [SECTION 1] APPLIES TO ALL
6 INHERITANCE TAXES ARISING FROM DEATHS OCCURRING BETWEEN JANUARY 1, 1995, AND JULY
7 1, 1999.

8

9 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

10

-END-

1 SENATE BILL NO. 272

2 INTRODUCED BY AKLESTAD, CRIPPEN, LYNCH, DEVLIN, THOMAS, FOSTER, GROSFIELD, HALLIGAN,

3 VAN VALKENBURG, WILSON

4 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR
7 STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE ~~AND, A RETROACTIVE APPLICABILITY DATE, AN APPLICABILITY DATE, AND A TERMINATION~~
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 **Section 1.** Section 72-16-313, MCA, is amended to read:14 **"72-16-313. Exemptions of spouse and other relatives.** (1) The clear value of all property
15 distributed or passing to a decedent's surviving spouse is exempt.

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

17 (a) any child or lineal descendant of the decedent. A determination as to establishment of the
18 parent and child relationship or establishment of a person as a lineal descendant must be made in
19 accordance with the rules for determining relationship for purposes of intestate succession under Title 72,
20 chapter 2, part 1.21 (b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or~~
22 ~~before the stepchild's 18th birthday if, prior to death, the decedent and the child stood in the mutually~~
23 acknowledged relationship of parent and child or stepparent and stepchild.

24 (3) The following amounts are exempt:

25 (a) property of the clear value of \$7,000 transferred to each of the persons who have attained
26 majority described in 72-16-321(1); and27 (b) property of the clear value of \$1,000 transferred to each of the persons described in
28 72-16-321(2)."29
30 **NEW SECTION. Section 2. Retroactive applicability.** [This act] applies retroactively, within the

1 meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.

2

3 NEW SECTION. SECTION 3. TERMINATION -- APPLICABILITY. (1) [SECTION 1] TERMINATES
4 JULY 1, 1999.

5 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), [SECTION 1] APPLIES TO ALL
6 INHERITANCE TAXES ARISING FROM DEATHS OCCURRING BETWEEN JANUARY 1, 1995, AND JULY
7 1, 1999.

8

9 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

10

-END-

SENATE BILL NO. 272

INTRODUCED BY AKLESTAD, CRIPPEN, LYNCH, DEVLIN, THOMAS, FOSTER, GROSFIELD, HALLIGAN,
VAN VALKENBURG, WILSON

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR
STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE AND, ~~A RETROACTIVE APPLICABILITY DATE, AN APPLICABILITY DATE, AND A TERMINATION~~
DATE."

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

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

"72-16-313. Exemptions of spouse and other relatives. (1) The clear value of all property
distributed or passing to a decedent's surviving spouse is exempt.

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

(a) 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 1.

(b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or~~
~~before the stepchild's 18th birthday if, prior to death, the decedent and the child stood in the mutually~~
~~acknowledged relationship of parent and child or stepparent and stepchild.~~

(3) The following amounts are exempt:

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

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

~~NEW SECTION. Section 2. Retroactive applicability. [This act] applies retroactively, within the~~

1 ~~meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.~~

2

3 NEW SECTION. SECTION 2. TERMINATION -- APPLICABILITY. (1) [SECTION 1] TERMINATES

4 JULY 1, 1999.

5 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), [SECTION 1] APPLIES TO ALL

6 INHERITANCE TAXES ARISING FROM DEATHS OCCURRING BETWEEN JANUARY 1, 1995, [THE

7 EFFECTIVE DATE OF THIS ACT] AND JULY 1, 1999.

8

9 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

10

-END-

1 SENATE BILL NO. 272

2 INTRODUCED BY AKLESTAD, CRIPPEN, LYNCH, DEVLIN, THOMAS, FOSTER, GROSFIELD, HALLIGAN,

3 VAN VALKENBURG, WILSON

4 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR
7 STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE AND, ~~A RETROACTIVE APPLICABILITY DATE,~~ AN APPLICABILITY DATE, AND A TERMINATION
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 **Section 1.** Section 72-16-313, MCA, is amended to read:14 **"72-16-313. Exemptions of spouse and other relatives.** (1) The clear value of all property
15 distributed or passing to a decedent's surviving spouse is exempt.

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

17 (a) any child or lineal descendant of the decedent. A determination as to establishment of the
18 parent and child relationship or establishment of a person as a lineal descendant must be made in
19 accordance with the rules for determining relationship for purposes of intestate succession under Title 72,
20 chapter 2, part 1.21 (b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or~~
22 ~~before the stepchild's 18th birthday if, prior to death, the decedent and the child stood in the mutually~~
23 ~~acknowledged relationship of parent and child or stepparent and stepchild.~~

24 (3) The following amounts are exempt:

25 (a) property of the clear value of \$7,000 transferred to each of the persons who have attained
26 majority described in 72-16-321(1); and27 (b) property of the clear value of \$1,000 transferred to each of the persons described in
28 72-16-321(2)."29
30 ~~NEW SECTION. Section 2. Retroactive applicability. [This act] applies retroactively, within the~~

1 ~~meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.~~

2

3 NEW SECTION. SECTION 2. TERMINATION -- APPLICABILITY. (1) [SECTION 1] TERMINATES
4 JULY 1, 1999.

5 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), [SECTION 1] APPLIES TO ALL
6 INHERITANCE TAXES ARISING FROM DEATHS OCCURRING BETWEEN JANUARY 1, 1995, [THE
7 EFFECTIVE DATE OF THIS ACT] AND JULY 1, 1999.

8

9 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

10

-END-



CONFERENCE COMMITTEE

on Senate Bill 272
Report No. 1, April 17, 1997

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill 272, met and considered:

--the House amendments to SB 272 dated April 9, 1997

We recommend that the House amendments to Senate Bill 272 (reference copy - salmon) be rejected.

And that this Conference Committee report be adopted.

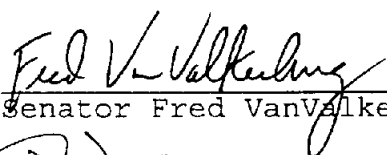
For the Senate:



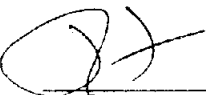
Senator Gary Aklestad, Chair




Senator William Glaser



Senator Fred VanValkenburg



Amd. Coord.



Sec. of Senate

For the House:



Rep. "Sam" Rose, Chair



Rep. John Bohlinger



Rep. Linda McCulloch

ADOPT

REJECT

CCR#1
SB 272

821531CC.SRF



CONFERENCE COMMITTEE

on Senate Bill 272

Report No. 2, April 19, 1997

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill 272, met and considered:

--the House amendments to SB 272 dated April 9, 1997

We recommend that the House amendments to Senate Bill 272 (reference copy - salmon) be rejected.

And that this Conference Committee report be adopted.

For the Senate:

Gary Aklestad
Senator Gary Aklestad, Chair

William Glaser
Senator William Glaser

Bill Wilson
Senator Bill Wilson

[Signature]
Amd. Coord.

[Signature]
Sec. of Senate

For the House:

Sam Rose
Rep. "Sam" Rose, Chair

John Bohlinger
Rep. John Bohlinger

Linda McCulloch
Rep. Linda McCulloch

ADOPT

REJECT

CCR# 2
SB 272

841427CC.SRF

1 SENATE BILL NO. 272

2 INTRODUCED BY AKLESTAD, CRIPPEN, LYNCH, DEVLIN, THOMAS, FOSTER, GROSFIELD, HALLIGAN,
3 VAN VALKENBURG, WILSON

4 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE INHERITANCE TAX EXEMPTION FOR
7 STEPCHILDREN; AMENDING SECTION 72-16-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
8 DATE ~~AND, A RETROACTIVE APPLICABILITY DATE,~~ A RETROACTIVE APPLICABILITY DATE, AN
9 APPLICABILITY DATE, AND A TERMINATION DATE."

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

12
13 Section 1. Section 72-16-313, MCA, is amended to read:

14 "**72-16-313. Exemptions of spouse and other relatives.** (1) The clear value of all property
15 distributed or passing to a decedent's surviving spouse is exempt.

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

17 (a) any child or lineal descendant of the decedent. A determination as to establishment of the
18 parent and child relationship or establishment of a person as a lineal descendant must be made in
19 accordance with the rules for determining relationship for purposes of intestate succession under Title 72,
20 chapter 2, part 1.

21 (b) any stepchild, as defined in 72-2-613, of the decedent, ~~provided the relationship began on or~~
22 ~~before the stepchild's 18th birthday if, prior to death, the decedent and the child stood in the mutually~~
23 ~~acknowledged relationship of parent and child or stepparent and stepchild.~~

24 (3) The following amounts are exempt:

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

27 (b) property of the clear value of \$1,000 transferred to each of the persons described in
28 72-16-321(2)."

29
30 ~~NEW SECTION. Section 2. Retroactive applicability. [This act] applies retroactively, within the~~

1 ~~meaning of 1-2-109, to the estates of decedents occurring on or after January 1, 1995.~~

2

3 NEW SECTION. SECTION 2. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES
4 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO THE ESTATES OF DECEDENTS OCCURRING
5 ON OR AFTER JANUARY 1, 1995.

6

7 NEW SECTION. SECTION 3. TERMINATION -- APPLICABILITY. (1) [SECTION 1] TERMINATES
8 JULY 1, 1999.

9 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), [SECTION 1] APPLIES TO ALL
10 INHERITANCE TAXES ARISING FROM DEATHS OCCURRING BETWEEN JANUARY 1, 1995, [THE
11 EFFECTIVE DATE OF THIS ACT] JANUARY 1, 1995, AND JULY 1, 1999.

12

13 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

14

-END-