

HOUSE BILL 740

IN THE HOUSE

February 10, 1979	Introduced and referred to Committee on Business and Industry.
February 13, 1979	Rereferred to Committee on Taxation.
March 13, 1979	Committee recommend bill, do not pass.
March 14, 1979	Report adopted.

House BILL NO. 740

INTRODUCED BY Salis

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT BANKS AND SAVINGS AND LOAN ASSOCIATIONS MAY DEDUCT ADDITIONS TO A BAD DEBT RESERVE ACCOUNT FROM GROSS INCOME IN ACCORDANCE WITH THE INTERNAL REVENUE CODE; AMENDING SECTION 15-31-114, MCA."

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

Section 1. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof

has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

~~(b) In lieu of any deduction for bad debt losses under subsection (2)(a), there is allowed a deduction by any bank or savings and loan association for a reasonable addition to a reserve for bad debts as provided under sections 166(c), 595, and 593 of the Internal Revenue Code of 1954, as amended.~~

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1        ~~(b)(1)~~ (i) There shall be allowed as a deduction for  
 2 the taxable period a net operating loss deduction determined  
 3 according to the provisions of this subsection. The net  
 4 operating loss deduction is the aggregate of net operating  
 5 loss carryovers to such taxable period plus the net  
 6 operating loss carrybacks to such taxable period. The term  
 7 "net operating loss" means the excess of the deductions  
 8 allowed by this section, 15-31-114, over the gross income,  
 9 with the modifications specified in (ii) of this subsection.  
 10 If for any taxable period beginning after December 31, 1970,  
 11 a net operating loss is sustained, such loss shall be a net  
 12 operating loss carryback to each of the three taxable  
 13 periods preceding the taxable period of such loss and shall  
 14 be a net operating loss carryover to each of the five  
 15 taxable periods following the taxable period of such loss. A  
 16 net operating loss for any taxable period ending after  
 17 December 31, 1975, in addition to being a net operating loss  
 18 carryback to each of the three preceding taxable periods,  
 19 shall be a net operating loss carryover to each of the seven  
 20 taxable periods following the taxable period of such loss.  
 21 The portion of such loss which shall be carried to each of  
 22 the other taxable years shall be the excess, if any, of the  
 23 amount of such loss over the sum of the net income for each  
 24 of the prior taxable periods to which such loss was carried.  
 25 For purposes of the preceding sentence, the net income for

1 such prior taxable period shall be computed with the  
 2 modifications specified in (ii)(B) of this subsection and by  
 3 determining the amount of the net operating loss deduction  
 4 without regard to the net operating loss for the loss period  
 5 or any taxable period thereafter, and the net income so  
 6 computed shall not be considered to be less than zero.

7        (ii) The modifications referred to in (i) of this  
 8 subsection shall be as follows:

9        (A) No net operating loss deduction shall be allowed.

10        (B) The deduction for depletion shall not exceed the  
 11 amount which would be allowable if computed under the cost  
 12 method.

13        (iii) A net operating loss deduction shall be allowed  
 14 only with regard to losses attributable to the business  
 15 carried on within the state of Montana.

16        (iv) In the case of a merger of corporations, the  
 17 surviving corporation shall not be allowed a net operating  
 18 loss deduction for net operating losses sustained by the  
 19 merged corporations prior to the date of merger. In the case  
 20 of a consolidation of corporations, the new corporate entity  
 21 shall not be allowed a deduction for net operating losses  
 22 sustained by the consolidated corporations prior to the date  
 23 of consolidation.

24        (v) Notwithstanding the provisions of 15-31-531,  
 25 interest shall not be paid with respect to a refund of tax

1 resulting from a net operating loss carryback or carryover.

2 (vi) The net operating loss deduction shall not be  
3 allowed with respect to taxable periods which ended on or  
4 before December 31, 1970, but shall be allowed only with  
5 respect to taxable periods beginning on or after January 1,  
6 1971.

7 (3) In the case of mines, other natural deposits, oil  
8 and gas wells, and timber, a reasonable allowance for  
9 depletion and for depreciation of improvements; such  
10 reasonable allowance to be determined according to the  
11 provisions of the Internal Revenue Code in effect for the  
12 taxable year. All elections made under the Internal Revenue  
13 Code with respect to capitalizing or expensing exploration  
14 and development costs and intangible drilling expenses for  
15 corporation license tax purposes shall be the same as the  
16 elections made for federal income tax purposes.

17 (4) The amount of interest paid within the year on its  
18 indebtedness incurred in the operation of the business from  
19 which its income is derived; but no interest shall be  
20 allowed as a deduction if paid on an indebtedness created  
21 for the purchase, maintenance, or improvement of property or  
22 for the conduct of business unless the income from such  
23 property or business would be taxable under this part.

24 (5) Interest income from obligations of the state or  
25 any political subdivision or municipality of the state.

1 (6) (a) Taxes paid within the year except the  
2 following:

3 (i) Taxes imposed by this part.

4 (ii) Taxes assessed against local benefits of a kind  
5 tending to increase the value of the property assessed.

6 (iii) Taxes on or according to or measured by net  
7 income or profits imposed by authority of the government of  
8 the United States.

9 (iv) Taxes imposed by any other state or country upon  
10 or measured by net income or profits.

11 (b) Taxes deductible under this part shall be  
12 construed to include taxes imposed by any county, school  
13 district, or municipality of this state.

14 (7) That portion of an energy-related investment  
15 allowed as a deduction under 15-32-103.\*

-End-

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## STATE OF MONTANA

REQUEST NO. 377-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 79, there is hereby submitted a Fiscal Note for House Bill 74D pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

DESCRIPTION

This proposed bill provides that banks and saving and loan associations may deduct additions to a bad debt reserve account from gross income in accordance with the Internal Revenue Code.

ASSUMPTIONS

- 1) For FY78 a sample of returns for banks and saving and loan associations were investigated. It was estimated that Federal bad debt deductions would have cost the state between \$500,000 and \$550,000 in FY78.
- 2) The addition to bad debt reserves is currently 1.2% of outstanding loans for banks. This phases down to 0.6% in FY82.
- 3) The addition to bad debt reserves for saving and loan associations was 42% of taxable income for tax year 1977, 41% in 1978 and 40% for 1979 and thereafter.
- 4) It is assumed that the value of the additional bad debt reserve will increase 5% per year.
- 5) The department of revenue projection for corporation license tax of \$35 million in FY80 and \$35 million in FY81 are correct.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
Corporation License Tax Collections		
under current law	\$35 M	\$35 M
under proposed law	\$34.393 M to \$34.449 M	\$34.363 M to \$34.421 M
Estimated Decrease	<u>(\$ .551 M to \$ .607 M)</u>	<u>(\$ .579 M to \$ .637 M)</u>

FUND INFORMATION

General Fund		
under current law	\$22.400 M	\$22.400 M
under proposed law	\$22.011 M to \$22.047 M	\$21.992 M to \$22.029 M
Estimated Decrease	<u>(\$ .353 M to \$ .389 M)</u>	<u>(\$ .371 M to \$ .408 M)</u>
Earmarked Revenue Fund (School Foundation Program)		
under current law	\$ 8.75 M	\$ 8.75 M
under proposed law	\$ 8.598 M to \$ 8.613 M	\$ 8.591 M to \$ 8.605 M
Estimated Decrease	<u>(\$ .137 M to \$ .152 M)</u>	<u>(\$ .145 M to \$ .159 M)</u>

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

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FUND INFORMATION (Cont.)

	<u>FY 80</u>	<u>FY 81</u>
Sinking Fund		
under current law	\$ 3.85 M	\$ 3.85 M
under proposed law	<u>\$ 3.784 M to \$ 3.789 M</u>	<u>\$ 3.780 M to \$ 3.787 M</u>
Estimated Decrease	<u>(\$ .061 M to \$ .066 M)</u>	<u>(\$ .063 M to \$ .070 M)</u>

LONG-RANGE EFFECTS

In the long run the addition to bad debt reserves for banks diminishes to 0.6%, which will probably be exceeded by actual losses. This will mean no impact on state revenues.

TECHNICAL NOTE

Revenues to the indicated Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decreases in revenues to that program may necessitate additional support from other sources.

PREPARED BY DEPARTMENT OF REVENUE

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4/20/79