

SENATE BILL NO. 150

INTRODUCED BY KOLSTAD, GOODOVER, HAFFERMAN, DOVER,
GALT, SIVERTSEN, QUILICI, IVERSON, THOMAS, MANLEY,
McCALLUM, SPILKER, CONOVER, WALLIN, OCHSNER, ASAY,
AKLESTAD, EUDAILY, KITSELMAN, VINGER, HAMMOND

IN THE SENATE

January 16, 1981	Introduced and referred to Committee on Taxation. Fiscal note requested.
January 21, 1981	Fiscal note returned.
March 25, 1981	Rereferred to Committee on Taxation.
March 28, 1981	Committee recommend bill do pass as amended. Report adopted.
March 30, 1981	Bill printed and placed on members' desks.
April 1, 1981	Second reading, do pass.
April 2, 1981	Correctly engrossed.
April 3, 1981	Third reading, passed. Ayes, 44; Noes, 4. Transmitted to House.

IN THE HOUSE

April 4, 1981	Introduced and referred to Committee on Taxation.
April 9, 1981	Committee recommend bill be concurrent in as amended. Report adopted.
April 10, 1981	On motion to suspend the rules and allow Senate Bill No. 150 to be placed on second reading this day. Motion adopted.

April 10, 1981

Second reading, concurred in.

On motion rules suspended
and bill placed on third
reading this day.

Third reading, concurred in
as amended. Ayes, 63; Noes, 30.

IN THE SENATE

April 10, 1981

Returned from House with
amendments.

On motion rules suspended.
House amendments referred
to second reading for con-
sideration this day.

Second reading, amendments
concurred in.

On motion rules suspended.
House amendments placed on
calendar for third reading
this day.

Third reading, amendments
concurred in. Ayes, 48;
Noes, 0. Sent to enrolling.

April 14, 1981

Correctly enrolled.

Signed by President.

Delivered to Governor.

April 20, 1981

Returned from Governor with
recommended amendments.

April 21, 1981

Second reading, Governor's
amendments concurred in.

April 21, 1981

On motion rules suspended.
Governor's amendments placed
on calendar for third reading
this day.

Third reading, Governor's
amendments concurred in.
Ayes, 49; Noes, 1. Trans-
mitted to House.

IN THE HOUSE

April 22, 1981

On motion rules suspended
and bill placed on second
reading this day.

Second reading, Governor's
amendments concurred in.

On motion rules suspended
and bill placed on third
reading this day.

Third reading, Governor's
amendments concurred in.
Ayes, 82; Noes, 10.

IN THE SENATE

April 23, 1981

Returned from House. Sent
to enrolling.

Reported correctly enrolled.

1 *Agree* BILL NO. *150*
 2 INTRODUCED BY *Arlestad, Goodover, Hoffmann, Don*
 3 *Walt, Director, Gulen, Henson, Thomas*
 4 *M. Bellum, M. G. Spiker, Conover, Willey*
 5 *O'Claver, ARLESTAD, DeBarry, Kitzelmann, Asay, Pringle*
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 7 15-31-123, MCA, TO INCREASE THE SMALL BUSINESS INVESTMENT
 8 CREDIT TO 100 PERCENT OF THE FEDERAL CREDIT."

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

9 Section 1. Section 15-31-123, MCA, is amended to read:

10 "15-31-123. Investment credit. (1) The purpose of this
 11 section is to allow individuals, estates, trusts, and small
 12 businesses that meet the definition established in this
 13 section to take an investment credit as provided for in
 14 subsection (3) and thus to stimulate capital investment by
 15 the small business sector.

16 (2) For the purposes of this section, "small business"
 17 means a business that is eligible to elect to be taxed under
 18 the provisions of 15-31-202, whether or not such election is
 19 made.

20 (3) There is allowed as a credit against the taxes
 21 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 22 of the credit allowed with respect to certain depreciable
 23 property under section 38 of the Internal Revenue Code of
 24 1954, as amended, or as section 38 may be renumbered or
 25 amended.

1 (4) The amount of the credit allowed for the taxable
2 year is the sum of:

3 (a) 20% of the total amount of credit determined under
4 section 46(a)(2) of the Internal Revenue Code of 1954, as
5 amended, or as section 46(a)(2) may be renumbered or
6 amended;

7 (b) the investment credit carryovers carried to the
8 taxable year as provided in subsection (6); and

9 (c) the investment credit carrybacks carried to the
10 taxable year as provided for in subsection (6).

11 (5) Notwithstanding the provisions of subsection (4),
12 the investment credit allowed for the taxable year may not
13 exceed the taxpayer's tax liability for the taxable year. In
14 the event the taxpayer's tax liability for the taxable year
15 exceeds \$5,000, the investment credit may not exceed \$5,000
16 plus 50% of the tax liability in excess of \$5,000.

17 (6) If any part of the investment credit is not
18 applied against the tax liability for the taxable year
19 because of the limitations imposed under subsection (5), the
20 unused portion shall be carried back and carried forward in
21 accordance with the provisions of section 46(b) of the
22 Internal Revenue Code of 1954, as amended, or as section
23 46(b) may be renumbered or amended.

24 (7) The investment credit allowed by this section is
25 subject to recapture as provided for in section 47 of the

LC 0624/01

- 1 Internal Revenue Code of 1954, as amended, or as section 47
- 2 may be renumbered or amended."

-End-

STATE OF MONTANA

REQUEST NO. 130-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 1981, there is hereby submitted a Fiscal Note for SENATE BILL 150 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

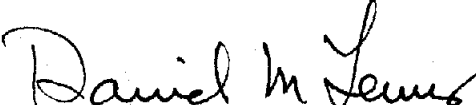
An act to increase the small business investment credit to 100 percent of the Federal credit.

FISCAL IMPACT

There are no publishable statistics available regarding investment credits claimed by small businesses in Montana; therefore, a precise estimate of the fiscal impact of this proposal is not feasible without undertaking a major study. Nevertheless, the data which are available indicate that the fiscal impact of already allowing an investment credit amounting to 20% of the Federal investment credit is at least \$5.4 million lost annually from Individual Income Tax, and about \$2.6 million lost annually from the Corporation Tax.

Therefore, it would seem that the amount by which total tax liabilities would be further reduced if the investment credit was increased to 100% of the Federal credit is \$21.8 million in Individual Income Tax and \$10.4 million in Corporation Tax, subject to carryover provisions contained in the Internal Revenue Code.

PREPARED BY THE DEPARTMENT OF REVENUE


Daniel M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-81

Approved by Committee
on Taxation

1 SENATE BILL NO. 150
2 INTRODUCED BY KOLSTAD, GOODOVER, HAFFERMAN, DOVER,
3 GALT, SIVERTSEN, QUILICI, IVERSON, THOMAS, MANLEY,
4 McCALLUM, SPILKER, CONOVER, WALLIN, OCHSNER, ASAY,
5 AKLESTAD, EUDAILY, KITSELMAN, VINGER, HAMMOND
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING--SECTION
8 ~~15-31-123~~---MCA, TO CLARIFY THE STATUTES ALLOWING THE
9 INVESTMENT CREDIT; AND TO INCREASE THE SMALL BUSINESS
10 INVESTMENT CREDIT TO ~~100~~ 40 PERCENT OF THE FEDERAL CREDIT;
11 AMENDING SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 SECTION 1. SECTION 15-30-161, MCA, IS AMENDED TO READ:

15 "15-30-161. Purpose and definition. (1) The purpose of
16 15-30-162 is to allow individuals, estates, and trusts,--and
17 ~~small--businesses--that--meet--the--definition--established--in~~
18 ~~this--section~~ owning an interest in partnerships and in small
19 business corporations electing to be taxed under the
20 provisions of 15-31-202 to take on the investment credit as
21 provided for in 15-30-162 and thus in order to stimulate
22 capital investment by the small business sector.

23 (2) ~~For the purposes of 15-30-162, "small business"~~
24 ~~means a business that is eligible to elect to be taxed under~~
25 ~~the provisions of 15-31-202, whether or not such election is~~

1 made."

2 SECTION 2. SECTION 15-30-162, MCA, IS AMENDED TO READ:

3 "15-30-162. Investment credit. (1) There is allowed as
4 a credit against the taxes imposed by 15-30-103 and
5 15-30-104 a percentage of the credit allowed with respect to
6 certain depreciable property under section 38 of the
7 Internal Revenue Code of 1954, as amended, or as section 38
8 may be renumbered or amended.

9 (2) The amount of the credit allowed for the taxable
10 year is the sum of:

11 (a) ~~20%~~ 40% of the amount of credit determined under
12 section 46(a)(2) of the Internal Revenue Code of 1954, as
13 amended, or as section 46(a)(2) may be renumbered or
14 amended;

15 (b) the investment credit carryovers carried to the
16 taxable year as provided in subsection (4); and

17 (c) the investment credit carrybacks carried to the
18 taxable year as provided for in subsection (4).

19 (3) Notwithstanding the provisions of subsection (2),
20 the investment credit allowed for the taxable year may not
21 exceed the taxpayer's tax liability for the taxable year. In
22 the event the taxpayer's tax liability for the taxable year
23 exceeds \$5,000, the investment credit may not exceed \$5,000
24 plus 50% of the tax liability in excess of \$5,000. In the
25 case of a husband and wife who file separate returns, the

1 investment credit may not exceed \$2,500 plus 50% of the tax
2 liability in excess of \$2,500 unless the spouse of the
3 taxpayer has no qualified investment for and no unused
4 credit carryback or carryover to the taxable year of the
5 spouse that ends with or within the taxpayer's taxable year.

6 (4) If any part of the investment credit is not
7 applied against the tax liability for the taxable year
8 because of the limitations imposed under subsection (3), the
9 unused portion shall be carried back and carried forward in
10 accordance with the provisions of section 46(b) of the
11 Internal Revenue Code of 1954, as amended, or as section
12 46(b) may be renumbered or amended.

13 (5) The investment credit allowed by this section is
14 subject to recapture as provided for in section 47 of the
15 Internal Revenue Code of 1954, as amended, or as section 47
16 may be renumbered or amended."

17 Section 3. Section 15-31-123, MCA, is amended to read:

18 "15-31-123. Investment credit. (1) The purpose of this
19 section is to allow ~~individuals, estates, trusts, and~~ small
20 ~~businesses that meet the definition established in this~~
21 section to take an investment credit as provided for in
22 subsection (3) and thus to stimulate capital investment by
23 the small business sector.

24 (2) For the purposes of this section, "small business"
25 means a business that is eligible to elect to be taxed under

1 the provisions of 15-31-202, whether or not such election is
2 made, OR ONE IN WHICH AT LEAST 50% OF THE OWNERSHIP OF SUCH
3 BUSINESS IS HELD, DIRECTLY OR INDIRECTLY, BY MEMBERS OF THE
4 SAME FAMILY. FOR PURPOSES OF THIS SECTION, "MEMBERS OF THE
5 SAME FAMILY" MEANS AN INDIVIDUAL, HIS SPOUSE, CHILDREN,
6 GRANDCHILDREN, PARENTS, BROTHERS, SISTERS, AND THE LINEAL
7 DESCENDANTS OF EACH SUCH PERSON OR GROUPS OF PERSONS.

8 (3) There is allowed as a credit against the taxes
9 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
10 of the credit allowed with respect to certain depreciable
11 property under section 38 of the Internal Revenue Code of
12 1954, as amended, or as section 38 may be renumbered or
13 amended.

14 (4) The amount of the credit allowed for the taxable
15 year is the sum of:

16 (a) ~~20%~~ 40% OF the ~~total~~ amount of credit
17 determined under section 46(a)(2) of the Internal Revenue
18 Code of 1954, as amended, or as section 46(a)(2) may be
19 renumbered or amended;

20 (b) the investment credit carryovers carried to the
21 taxable year as provided in subsection (6); and

22 (c) the investment credit carrybacks carried to the
23 taxable year as provided for in subsection (6).

24 (5) Notwithstanding the provisions of subsection (4),
25 the investment credit allowed for the taxable year may not

1 exceed the taxpayer's tax liability for the taxable year. In
2 the event the taxpayer's tax liability for the taxable year
3 exceeds \$5,000, the investment credit may not exceed \$5,000
4 plus 50% of the tax liability in excess of \$5,000.

5 (6) If any part of the investment credit is not
6 applied against the tax liability for the taxable year
7 because of the limitations imposed under subsection (5), the
8 unused portion shall be carried back and carried forward in
9 accordance with the provisions of section 46(b) of the
10 Internal Revenue Code of 1954, as amended, or as section
11 46(b) may be renumbered or amended.

12 (7) The investment credit allowed by this section is
13 subject to recapture as provided for in section 47 of the
14 Internal Revenue Code of 1954, as amended, or as section 47
15 may be renumbered or amended."

-End-

SENATE BILL NO. 150

INTRODUCED BY KOLSTAD, GOODOVER, HAFFERMAN, DOVER,
GALT, SIVERTSEN, QUILICI, IVERSON, THOMAS, MANLEY,
McCALLUM, SPILKER, CONOVER, WALLIN, OCHSNER, ASAY,
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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING--SECTION
~~15-31-123,--MCA, TO CLARIFY THE STATUTES ALLOWING THE~~
INVESTMENT CREDIT; AND TO INCREASE THE SMALL BUSINESS
INVESTMENT CREDIT TO ~~100~~ 40 PERCENT OF THE FEDERAL CREDIT;
AMENDING SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA."

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

SECTION 1. SECTION 15-30-161, MCA, IS AMENDED TO READ:

"15-30-161. Purpose and definition. ~~††~~ The purpose of
15-30-162 is to allow individuals, estates, and trusts--and
~~small--businesses--that--meet--the--definition--established--in~~
~~this--section~~ owning an interest in partnerships and in small
business corporations electing to be taxed under the
provisions of 15-31-202 to take on the investment credit as
provided for in 15-30-162 ~~and thus in order~~ to stimulate
capital investment by the small business sector.

~~††--for--the--purposes--of--15-30-162--"small--business"~~
~~means--a--business--that--is--eligible--to--elect--to--be--taxed--under~~
~~the--provisions--of--15-31-202,--whether--or--not--such--election--is~~

made."

SECTION 2. SECTION 15-30-162, MCA, IS AMENDED TO READ:

"15-30-162. Investment credit. (1) There is allowed as
a credit against the taxes imposed by 15-30-103 and
15-30-104 a percentage of the credit allowed with respect to
certain depreciable property under section 38 of the
Internal Revenue Code of 1954, as amended, or as section 38
may be renumbered or amended.

(2) The amount of the credit allowed for the taxable
year is the sum of:

(a) ~~20%~~ 40% of the amount of credit determined under
section 46(a)(2) of the Internal Revenue Code of 1954, as
amended, or as section 46(a)(2) may be renumbered or
amended;

(b) the investment credit carryovers carried to the
taxable year as provided in subsection (4); and

(c) the investment credit carrybacks carried to the
taxable year as provided for in subsection (4).

(3) Notwithstanding the provisions of subsection (2),
the investment credit allowed for the taxable year may not
exceed the taxpayer's tax liability for the taxable year. In
the event the taxpayer's tax liability for the taxable year
exceeds \$5,000, the investment credit may not exceed \$5,000
plus 50% of the tax liability in excess of \$5,000. In the
case of a husband and wife who file separate returns, the

1 investment credit may not exceed \$2,500 plus 50% of the tax
 2 liability in excess of \$2,500 unless the spouse of the
 3 taxpayer has no qualified investment for and no unused
 4 credit carryback or carryover to the taxable year of the
 5 spouse that ends with or within the taxpayer's taxable year.

6 (4) If any part of the investment credit is not
 7 applied against the tax liability for the taxable year
 8 because of the limitations imposed under subsection (3), the
 9 unused portion shall be carried back and carried forward in
 10 accordance with the provisions of section 46(b) of the
 11 Internal Revenue Code of 1954, as amended, or as section
 12 46(b) may be renumbered or amended.

13 (5) The investment credit allowed by this section is
 14 subject to recapture as provided for in section 47 of the
 15 Internal Revenue Code of 1954, as amended, or as section 47
 16 may be renumbered or amended."

17 Section 3. Section 15-31-123, MCA, is amended to read:

18 "15-31-123. Investment credit. (1) The purpose of this
 19 section is to allow ~~individuals, estates, trusts, and small~~
 20 ~~businesses that meet the definition established in this~~
 21 ~~section to take an investment credit as provided for in~~
 22 ~~subsection (3) and thus to stimulate capital investment by~~
 23 the small business sector.

24 (2) For the purposes of this section, "small business"
 25 means a business that is eligible to elect to be taxed under

1 the provisions of 15-31-202, whether or not such election is
 2 made, OR ONE IN WHICH AT LEAST 50% OF THE OWNERSHIP OF SUCH
 3 BUSINESS IS HELD, DIRECTLY OR INDIRECTLY, BY MEMBERS OF THE
 4 SAME FAMILY. FOR PURPOSES OF THIS SECTION, "MEMBERS OF THE
 5 SAME FAMILY" MEANS AN INDIVIDUAL, HIS SPOUSE, CHILDREN,
 6 GRANDCHILDREN, PARENTS, BROTHERS, SISTERS, AND THE LINEAL
 7 DESCENDANTS OF EACH SUCH PERSON OR GROUPS OF PERSONS.

8 (3) There is allowed as a credit against the taxes
 9 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 10 of the credit allowed with respect to certain depreciable
 11 property under section 38 of the Internal Revenue Code of
 12 1954, as amended, or as section 38 may be renumbered or
 13 amended.

14 (4) The amount of the credit allowed for the taxable
 15 year is the sum of:

16 (a) ~~20%~~ 40% ~~of~~ of the ~~total~~ amount of credit
 17 determined under section 46(a)(2) of the Internal Revenue
 18 Code of 1954, as amended, or as section 46(a)(2) may be
 19 renumbered or amended;

20 (b) the investment credit carryovers carried to the
 21 taxable year as provided in subsection (6); and

22 (c) the investment credit carrybacks carried to the
 23 taxable year as provided for in subsection (6).

24 (5) Notwithstanding the provisions of subsection (4),
 25 the investment credit allowed for the taxable year may not

1 exceed the taxpayer's tax liability for the taxable year. In
2 the event the taxpayer's tax liability for the taxable year
3 exceeds \$5,000, the investment credit may not exceed \$5,000
4 plus 50% of the tax liability in excess of \$5,000.

5 (6) If any part of the investment credit is not
6 applied against the tax liability for the taxable year
7 because of the limitations imposed under subsection (5), the
8 unused portion shall be carried back and carried forward in
9 accordance with the provisions of section 46(b) of the
10 Internal Revenue Code of 1954, as amended, or as section
11 46(b) may be renumbered or amended.

12 (7) The investment credit allowed by this section is
13 subject to recapture as provided for in section 47 of the
14 Internal Revenue Code of 1954, as amended, or as section 47
15 may be renumbered or amended."

-End-

SENATE BILL NO. 150

INTRODUCED BY KOLSTAD, GOODOVER, HAFFERMAN, DOVER, GALT, SIVERTSEN, QUILICI, IVERSON, THOMAS, MANLEY, MCCALLUM, SPILKER, CONOVER, WALLIN, OCHSNER, ASAY, AKLESTAD, EUDAILY, KITSELMAN, VINGER, HAMMOND

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING--SECTION 15-31-123,---MCA, TO CLARIFY THE STATUTES ALLOWING THE INVESTMENT CREDIT; AND TO INCREASE THE SMALL BUSINESS INVESTMENT CREDIT TO 40 30 PERCENT OF THE FEDERAL CREDIT; AMENDING SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND PROVIDING APPLICABILITY DATES."

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

SECTION 1. SECTION 15-30-161, MCA, IS AMENDED TO READ:

"15-30-161. Purpose and definition. (1) The purpose of 15-30-162 is to allow individuals, estates, and trusts, and small-businesses-that-meet--the--definition--established--in this-section owning an interest in partnerships and in small business corporations electing to be taxed under the provisions of 15-31-202 to take an the investment credit as provided for in 15-30-162 and thus in order to stimulate capital investment by the small business sector.

(2)--For-the-purposes-of--15-30-162,--"small--business" means-a-business-that-is-eligible-to-elect-to-be-taxed-under

the-provisions-of-15-31-202,--whether-or-not-such-election-is made."

SECTION 2. SECTION 15-30-162, MCA, IS AMENDED TO READ:

"15-30-162. Investment credit. (1) There is allowed as a credit against the taxes imposed by 15-30-103 and 15-30-104 a percentage of the credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended.

(2) The amount of the credit allowed for the taxable year is the sum of:

(a) 20% 40% 30% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (4); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (4).

(3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 50% of the tax liability in excess of \$5,000. In the

1 means a business that is eligible to elect to be taxed under
 2 the provisions of 15-31-202, whether or not such election is
 3 ~~made, or one in which at least 50% of the ownership of such~~
 4 ~~business is held by directly or indirectly by members of the~~
 5 ~~same family, for purposes of this section, members of the~~
 6 ~~same family means an individual, his spouse, children,~~
 7 ~~grandchildren, parents, brothers, sisters, and the lineal~~
 8 ~~descendants of each such person or groups of persons.~~

9 (3) There is allowed as a credit against the taxes
 10 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 11 of the credit allowed with respect to certain depreciable
 12 property under section 38 of the Internal Revenue Code of
 13 1954, as amended, or as section 38 may be renumbered or
 14 amended.

15 (4) The amount of the credit allowed for the taxable
 16 year is the sum of:

17 (a) ~~28% of 48% 30%~~ OF the ~~total~~ amount of credit
 18 determined under section 46(a)(2) of the Internal Revenue
 19 Code of 1954, as amended, or as section 46(a)(2) may be
 20 renumbered or amended;

21 (b) the investment credit carryovers carried to the
 22 taxable year as provided in subsection (6); and

23 (c) the investment credit carrybacks carried to the
 24 taxable year as provided for in subsection (6).

25 (5) Notwithstanding the provisions of subsection (4),

1 case of a husband and wife who file separate returns, the
 2 investment credit may not exceed \$2,500 plus 50% of the tax
 3 liability in excess of \$2,500 unless the spouse of the
 4 taxpayer has no qualified investment for and no unused
 5 credit carryback or carryover to the taxable year of the
 6 spouse that ends with or within the taxpayer's taxable year.

7 (4) If any part of the investment credit is not
 8 applied against the tax liability for the taxable year
 9 because of the limitations imposed under subsection (3), the
 10 unused portion shall be carried back and carried forward in
 11 accordance with the provisions of section 46(b) of the
 12 Internal Revenue Code of 1954, as amended, or as section
 13 46(b) may be renumbered or amended.

14 (5) The investment credit allowed by this section is
 15 subject to recapture as provided for in section 47 of the
 16 Internal Revenue Code of 1954, as amended, or as section 47
 17 may be renumbered or amended."

18 Section 3. Section 15-31-123, MCA, is amended to read:

19 "15-31-123. Investment credit. (1) The purpose of this
 20 section is to allow ~~individuals, estates, trusts, and~~ small
 21 ~~businesses that meet the definition established in this~~
 22 ~~section~~ to take an investment credit as provided for in
 23 subsection (3) and thus to stimulate capital investment by
 24 the small business sector.

25 (2) For the purposes of this section, "small business"

1 the investment credit allowed for the taxable year may not
2 exceed the taxpayer's tax liability for the taxable year. In
3 the event the taxpayer's tax liability for the taxable year
4 exceeds \$5,000, the investment credit may not exceed \$5,000
5 plus 50% of the tax liability in excess of \$5,000.

6 (6) If any part of the investment credit is not
7 applied against the tax liability for the taxable year
8 because of the limitations imposed under subsection (5), the
9 unused portion shall be carried back and carried forward in
10 accordance with the provisions of section 46(b) of the
11 Internal Revenue Code of 1954, as amended, or as section
12 46(b) may be renumbered or amended.

13 (7) The investment credit allowed by this section is
14 subject to recapture as provided for in section 47 of the
15 Internal Revenue Code of 1954, as amended, or as section 47
16 may be renumbered or amended."

17 SECTION 4. APPLICABILITY. THIS ACT IS APPLICABLE ONLY
18 TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1980, AND
19 BEFORE JANUARY 1, 1983.

-End-

April 8, 1981

HOUSE TAXATION COMMITTEE AMENDMENTS TO SENATE BILL 150:

1. Title, line 10.

Following: "~~100~~"

Strike: "40"

Insert: "30"

2. Title, line 11.

Following: "MCA"

Insert: "; AND PROVIDING APPLICABILITY DATES"

3. Page 2, line 11.

Following: "~~20%~~"

Strike: "40%"

Insert: "30%"

4. Page 4, lines 2 through 7.

Following: "made" on line 2

Strike: line 2 through "PERSONS" on line 7

5. Page 4, line 16.

Following: "~~ef~~"

Strike: "40%"

Insert: "30%"

6. Page 5.

Following: line 15

Insert: "Section 4. Applicability. This act is applicable to only taxable years beginning after December 31, 1980 and before January 1, 1983."

GOVERNOR'S PROPOSED AMENDMENT TO SENATE BILL NO. 150;
REFERENCE COPY; AS FOLLOWS:

1. Page 1, line 19
Following: "section"
Insert: ", including those"
2. Page 1, line 21
Following: "15-31-202"
Insert: ", "



TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena 59620

April 18, 1981

The Honorable Jean A. Turnage
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill No. 150, "AN ACT TO CLARIFY THE STATUTES ALLOWING THE INVESTMENT CREDIT; AND TO INCREASE THE SMALL BUSINESS INVESTMENT CREDIT TO 30 PERCENT OF THE FEDERAL CREDIT; AMENDING SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND PROVIDING APPLICABILITY DATES," without my signature and recommend the attached amendment.

The way that Section 15-30-161, MCA, reads after amendment by this bill, it allows the investment credit only to those individuals, estates and trusts owning an interest in partnerships and small business corporations electing to be taxed under 15-31-202. I do not believe it was the legislature's intent to eliminate the sole proprietor from eligibility for this credit, and accordingly, my proposed amendment ensures that the sole proprietorship form of small business qualifies for the credit.

I urge your concurrence in this proposed amendment.

Sincerely,

TED SCHWINDEN
Governor