

SENATE BILL NO. 401

2/12 Introduced  
2/13 Referred to Taxation  
2/13 Fiscal Note Requested  
2/18 Fiscal Note Received  
2/21 Hearing  
2/21 Committee Report-Bill Do Pass  
2/23 2nd Reading Pass  
2/25 3rd Reading Pass

Transmitted to House

2/27 Referred to Taxation  
3/20 Hearing  
Died in Committee

1  
 2 INTRODUCED BY *Senate BILL NO. 401*  
*Wasson - Elder* *Raymond M. Muzak* *LANE*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TAX  
 5 DEDUCTION FOR CORPORATIONS AND SHAREHOLDERS OF ELECTING  
 6 SMALL BUSINESS CORPORATIONS MAKING A DONATION OF A COMPUTER  
 7 OR SIMILAR EQUIPMENT TO A NONPROFIT ORGANIZATION; AMENDING  
 8 SECTIONS 15-30-126 AND 15-31-114, MCA; AND PROVIDING AN  
 9 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 15-30-126, MCA, is amended to read:  
 13 "15-30-126. Small business corporation -- deduction  
 14 for donation of computer equipment to schools or nonprofit  
 15 organizations. A small business corporation electing to be  
 16 taxed under the provisions of 15-31-202 is allowed a  
 17 deduction equal to the fair market value, not to exceed 30%  
 18 of the small business corporation's net income, of a  
 19 computer or other sophisticated technological equipment or  
 20 apparatus intended for use with the computer donated to an  
 21 elementary, secondary, or accredited postsecondary school or  
 22 nonprofit organization located in Montana if:  
 23 (1) the contribution is made no later than 5 years  
 24 after the manufacture of the donated property is  
 25 substantially completed;

1 (2) the property is not transferred by the donee in  
 2 exchange for money, other property, or services;  
 3 (3) the electing small business corporation receives a  
 4 written statement from the donee in which the donee agrees  
 5 to accept the property and representing that the use and  
 6 disposition of the property will be in accordance with the  
 7 provisions of subsection (2); and  
 8 (4) the deduction allowed in this section is in lieu  
 9 of the deduction allowed under 15-30-121 for charitable  
 10 contributions."  
 11 Section 2. Section 15-31-114, MCA, is amended to read:  
 12 "15-31-114. Deductions allowed in computing income. In  
 13 computing the net income, the following deductions shall be  
 14 allowed from the gross income received by such corporation  
 15 within the year from all sources:  
 16 (1) All the ordinary and necessary expenses paid or  
 17 incurred during the taxable year in the maintenance and  
 18 operation of its business and properties, including  
 19 reasonable allowance for salaries for personal services  
 20 actually rendered, subject to the limitation hereinafter  
 21 contained, rentals or other payments required to be made as  
 22 a condition to the continued use or possession of property  
 23 to which the corporation has not taken or is not taking  
 24 title or in which it has no equity. No deduction shall be  
 25 allowed for salaries paid upon which the recipient thereof



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

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

20 (b) (i) There shall be allowed as a deduction for the  
 21 taxable period a net operating loss deduction determined  
 22 according to the provisions of this subsection. The net  
 23 operating loss deduction is the aggregate of net operating  
 24 loss carryovers to such taxable period plus the net  
 25 operating loss carrybacks to such taxable period. The term

1 "net operating loss" means the excess of the deductions  
 2 allowed by this section, 15-31-114, over the gross income,  
 3 with the modifications specified in (ii) of this subsection.  
 4 If for any taxable period beginning after December 31, 1970,  
 5 a net operating loss is sustained, such loss shall be a net  
 6 operating loss carryback to each of the three taxable  
 7 periods preceding the taxable period of such loss and shall  
 8 be a net operating loss carryover to each of the five  
 9 taxable periods following the taxable period of such loss. A  
 10 net operating loss for any taxable period ending after  
 11 December 31, 1975, in addition to being a net operating loss  
 12 carryback to each of the three preceding taxable periods,  
 13 shall be a net operating loss carryover to each of the seven  
 14 taxable periods following the taxable period of such loss.  
 15 The portion of such loss which shall be carried to each of  
 16 the other taxable years shall be the excess, if any, of the  
 17 amount of such loss over the sum of the net income for each  
 18 of the prior taxable periods to which such loss was carried.  
 19 For purposes of the preceding sentence, the net income for  
 20 such prior taxable period shall be computed with the  
 21 modifications specified in (ii)(B) of this subsection and by  
 22 determining the amount of the net operating loss deduction  
 23 without regard to the net operating loss for the loss period  
 24 or any taxable period thereafter, and the net income so  
 25 computed shall not be considered to be less than zero.

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

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

4 (B) The deduction for depletion shall not exceed the  
5 amount which would be allowable if computed under the cost  
6 method.

7 (C) Any net operating loss carried over to any taxable  
8 years beginning after December 31, 1978, must be calculated  
9 under the provisions of this section effective for the  
10 taxable year for which the return claiming the net operating  
11 loss carryover is filed.

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

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

23 (v) Notwithstanding the provisions of 15-31-531,  
24 interest shall not be paid with respect to a refund of tax  
25 resulting from a net operating loss carryback or carryover.

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

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

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

23 (5) (a) Taxes paid within the year, except the  
24 following:

25 (i) Taxes imposed by this part.

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

3 (iii) Taxes on or according to or measured by net  
4 income or profits imposed by authority of the government of  
5 the United States.

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

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

11 (6) Light vehicle license fees, as provided by  
12 61-3-532, paid within the year.

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

15 (8) (a) Except as provided in subsection (b),  
16 charitable contributions and gifts that qualify for  
17 deduction under section 170 of the Internal Revenue Code, as  
18 amended.

19 (b) The public service commission shall not allow in  
20 the rate base of a regulated corporation the inclusion of  
21 contributions made under this subsection.

22 (9) In lieu of the deduction allowed under subsection  
23 (8), the taxpayer may deduct the fair market value, not to  
24 exceed 30% of the taxpayer's net income, of a computer or  
25 other sophisticated technological equipment or apparatus

1 intended for use with the computer donated to an elementary,  
2 secondary, or accredited postsecondary school or nonprofit  
3 organization located in Montana if:

4 (a) the contribution is made no later than 5 years  
5 after the manufacture of the donated property is  
6 substantially completed;

7 (b) the property is not transferred by the donee in  
8 exchange for money, other property, or services; and

9 (c) the taxpayer receives a written statement from the  
10 donee in which the donee agrees to accept the property and  
11 representing that the use and disposition of the property  
12 will be in accordance with the provisions of (b) of this  
13 subsection (9)."

14 NEW SECTION. Section 3. Extension of authority. Any  
15 existing authority of the department of revenue to make  
16 rules on the subject of the provisions of this act is  
17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date --  
19 applicability. This act is effective on passage and approval  
20 and applies to taxable years beginning after December 31,  
21 1984.

-End-

## STATE OF MONTANA

REQUEST NO. FNN 427-85

## FISCAL NOTE

Form BD-15

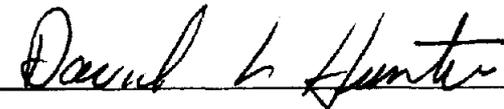
In compliance with a written request received February 13, 19 85, there is hereby submitted a Fiscal Note for S.B. 401 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a tax deduction for corporations and shareholders of electing small business corporations making a donation of a computer or similar equipment to a nonprofit organization; and providing an immediate effective date and an applicability date.

FISCAL IMPACT:

The 1983 legislature allowed a corporation license tax deduction for donations of computer equipment to schools. Since then no data have been gathered indicating the use of this deduction. However, the Department of Revenue believes the use to be minimal. While the exact impact of the proposed legislation (extending the deduction to donations of computer equipment to nonprofit organizations) is unknown, it is believed to be minimal.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 18, 1985

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 427-85

Form BD-15

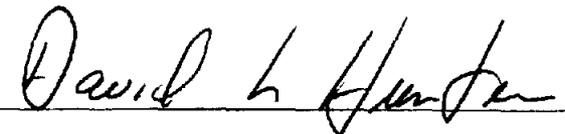
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BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 19, 1985  
SB401

APPROVED BY COMMITTEE  
ON TAXATION

1  
2 INTRODUCTION BY Senate BILL NO. 401  
3 Wasson-Ellis LANE

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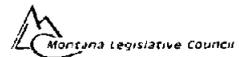
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8 (4) the deduction allowed in this section is in lieu  
9 of the deduction allowed under 15-30-121 for charitable  
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11 Section 2. Section 15-31-114, MCA, is amended to read:

12 "15-31-114. Deductions allowed in computing income. In  
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13 only with regard to losses attributable to the business  
14 carried on within the state of Montana.

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

23 (v) Notwithstanding the provisions of 15-31-531,  
24 interest shall not be paid with respect to a refund of tax  
25 resulting from a net operating loss carryback or carryover.

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

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

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

23 (5) (a) Taxes paid within the year, except the  
24 following:

25 (i) Taxes imposed by this part.

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

3 (iii) Taxes on or according to or measured by net  
4 income or profits imposed by authority of the government of  
5 the United States.

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

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

11 (6) Light vehicle license fees, as provided by  
12 61-3-532, paid within the year.

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

15 (8) (a) Except as provided in subsection (b),  
16 charitable contributions and gifts that qualify for  
17 deduction under section 170 of the Internal Revenue Code, as  
18 amended.

19 (b) The public service commission shall not allow in  
20 the rate base of a regulated corporation the inclusion of  
21 contributions made under this subsection.

22 (9) In lieu of the deduction allowed under subsection  
23 (8), the taxpayer may deduct the fair market value, not to  
24 exceed 30% of the taxpayer's net income, of a computer or  
25 other sophisticated technological equipment or apparatus

1 intended for use with the computer donated to an elementary,  
2 secondary, or accredited postsecondary school or nonprofit  
3 organization located in Montana if:

4 (a) the contribution is made no later than 5 years  
5 after the manufacture of the donated property is  
6 substantially completed;

7 (b) the property is not transferred by the donee in  
8 exchange for money, other property, or services; and

9 (c) the taxpayer receives a written statement from the  
10 donee in which the donee agrees to accept the property and  
11 representing that the use and disposition of the property  
12 will be in accordance with the provisions of (b) of this  
13 subsection (9)."

14 NEW SECTION. Section 3. Extension of authority. Any  
15 existing authority of the department of revenue to make  
16 rules on the subject of the provisions of this act is  
17 extended to the provisions of this act.

18 NEW SECTION. Section 4. Effective date --  
19 applicability. This act is effective on passage and approval  
20 and applies to taxable years beginning after December 31,  
21 1984.

-End-