

SENATE BILL NO. 460

2/20 Introduced  
2/21 Referred to Taxation  
2/21 Fiscal Note Requested  
2/29 Fiscal Note Received  
3/15 Hearing  
3/21 Tabled in Committee

1 *Senate* BILL NO. *460*  
 2 INTRODUCED BY *Christiana Keenan*  
 3 *Brian Eck*

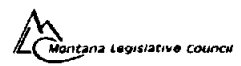
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE GRADUATED  
 5 HOLDING PERIODS FOR CALCULATING THE PERCENTAGE OF NET  
 6 CAPITAL GAINS DEDUCTIBLE FROM GROSS INCOME FOR PURPOSES OF  
 7 INDIVIDUAL INCOME TAXES; AMENDING SECTION 15-30-111, MCA;  
 8 AND PROVIDING AN APPLICABILITY DATE."  
 9

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

11 Section 1. Section 15-30-111, MCA, is amended to read:  
 12 "15-30-111. Adjusted gross income. (1) Adjusted gross  
 13 income shall be the taxpayer's federal income tax adjusted  
 14 gross income as defined in section 62 of the Internal  
 15 Revenue Code of 1954 or as that section may be labeled or  
 16 amended and in addition shall include the following:

- 17 (a) interest received on obligations of another state
- 18 or territory or county, municipality, district, or other
- 19 political subdivision thereof;
- 20 (b) refunds received of federal income tax, to the
- 21 extent the deduction of such tax resulted in a reduction of
- 22 Montana income tax liability.
- 23 (2) Notwithstanding the provisions of the federal
- 24 Internal Revenue Code of 1954 as labeled or amended,
- 25 adjusted gross income does not include the following which

- 1 are exempt from taxation under this chapter:
- 2 (a) all interest income from obligations of the United
- 3 States government, the state of Montana, county,
- 4 municipality, district, or other political subdivision
- 5 thereof;
- 6 (b) interest income earned by a taxpayer age 65 or
- 7 older in a taxable year up to and including \$800 for a
- 8 taxpayer filing a separate return and \$1,600 for each joint
- 9 return;
- 10 (c) all benefits received under the Federal Employees'
- 11 Retirement Act not in excess of \$3,600;
- 12 (d) all benefits, not in excess of \$360, received as
- 13 an annuity, pension, or endowment under any private or
- 14 corporate retirement plan or system;
- 15 (e) all benefits paid under the teachers' retirement
- 16 law which are specified as exempt from taxation by 19-4-706;
- 17 (f) all benefits paid under The Public Employees'
- 18 Retirement System Act which are specified as exempt from
- 19 taxation by 19-3-105;
- 20 (g) all benefits paid under the highway patrol
- 21 retirement law which are specified as exempt from taxation
- 22 by 19-6-705;
- 23 (h) all Montana income tax refunds or credits thereof;
- 24 (i) all benefits paid under 19-11-602, 19-11-604, and
- 25 19-11-605 to retired and disabled firefighters, their



1 surviving spouses and orphans;

2 (j) all benefits paid by first- or second-class cities  
3 for the policemen's retirement system provided for by Title  
4 19, chapter 9;

5 (k) gain required to be recognized by a liquidating  
6 corporation under 15-31-113(1)(a)(ii);

7 (l) all tips covered by section 3402(k) of the  
8 Internal Revenue Code of 1954, as amended and applicable on  
9 January 1, 1983, received by persons for services rendered  
10 by them to patrons of premises licensed to provide food,  
11 beverage, or lodging.

12 (3) In the case of a shareholder of a corporation with  
13 respect to which the election provided for under subchapter  
14 S. of the Internal Revenue Code of 1954, as amended, is in  
15 effect but with respect to which the election provided for  
16 under 15-31-202, as amended, is not in effect, adjusted  
17 gross income does not include any part of the corporation's  
18 undistributed taxable income, net operating loss, capital  
19 gains or other gains, profits, or losses required to be  
20 included in the shareholder's federal income tax adjusted  
21 gross income by reason of the said election under subchapter  
22 S. However, the shareholder's adjusted gross income shall  
23 include actual distributions from the corporation to the  
24 extent they would be treated as taxable dividends if the  
25 subchapter S. election were not in effect.

1 (4) A shareholder of a DISC that is exempt from the  
2 corporation license tax under 15-31-102(1)(1) shall include  
3 in his adjusted gross income the earnings and profits of the  
4 DISC in the same manner as provided by federal law (section  
5 995, Internal Revenue Code) for all periods for which the  
6 DISC election is effective.

7 (5) A taxpayer who, in determining federal adjusted  
8 gross income, has reduced his business deductions by an  
9 amount for wages and salaries for which a federal tax credit  
10 was elected under section 44B of the Internal Revenue Code  
11 of 1954 or as that section may be labeled or amended is  
12 allowed to deduct the amount of such wages and salaries paid  
13 regardless of the credit taken. The deduction must be made  
14 in the year the wages and salaries were used to compute the  
15 credit. In the case of a partnership or small business  
16 corporation, the deduction must be made to determine the  
17 amount of income or loss of the partnership or small  
18 business corporation.

19 (6) Gross income deductions for capital gains as  
20 provided in section 1202 of the Internal Revenue Code of  
21 1954, as amended and applicable on January 1, 1985, must be  
22 calculated according to the following graduated holding  
23 periods, and adjusted gross income must be modified  
24 accordingly:

25 Holding Period Percentage of Net

Capital Gain  
Deductible From  
Gross Income

1		
2		
3		
4	<u>6 months or more but less than</u>	
5	<u>3 years</u>	<u>10%</u>
6	<u>3 years or more but less than</u>	
7	<u>6 years</u>	<u>20%</u>
8	<u>6 years or more but less than</u>	
9	<u>9 years</u>	<u>30%</u>
10	<u>9 years or more but less than</u>	
11	<u>12 years</u>	<u>40%</u>
12	<u>12 years or more but less than</u>	
13	<u>15 years</u>	<u>50%</u>
14	<u>15 years or more but less than</u>	
15	<u>20 years</u>	<u>60%</u>
16	<u>20 years or more</u>	<u>70%*</u>

17     NEW SECTION. Section 2. Extension of authority. Any  
18 existing authority of the department of revenue to make  
19 rules on the subject of the provisions of this act is  
20 extended to the provisions of this act.

21     NEW SECTION. Section 3. Applicability. This act is  
22 applicable to taxable years beginning after December 31,  
23 1984.

-End-

## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. FNN 494-85Form BD-15

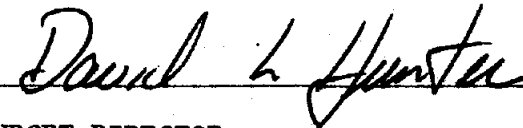
In compliance with a written request received February 21, 19 85, there is hereby submitted a Fiscal Note for S.B. 460 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide graduated holding periods for calculating the percentage of net capital gains deductible from gross income for purposes of individual income taxes.

ASSUMPTIONS:

1. Individual Income Tax Collections will be \$196,157,813 and \$209,890,625 in FY 86 and FY 87 respectively (OBPP).
2. Taxable net capital gains will remain constant at the CY 1983 level of \$488,733,000.
3. Based on unpublished IRS data; 10.86% of total gains before exclusion are short term gains and the weighted average exclusion for long term gains under the proposal will be 36.37%.
4. The average marginal rate for returns reporting capital gains is 6.32%.
5. Approximately 15% of taxpayers with capital gains receive filing extensions.
6. Administrative costs will be increased by \$55,719 for FY 86 and \$49,049 for FY 87.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 27, 1985

FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY 1986</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Under</u> <u>Current Law</u>	<u>FY 1987</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
<u>EFFECT OF REVENUE</u>						
Individual Income Tax	\$196,157,813	\$208,046,763	\$11,888,950	\$209,890,625	\$223,877,625	\$13,987,000
<u>EXPENDITURES</u>						
Personal Services	\$ -0-	\$ 36,170	\$ - 36,170	\$ -0-	\$ 36,170	\$ 36,170
Operating Expenses	\$ -0-	\$ 17,379	\$ 17,379	\$ -0-	\$ 12,879	\$ 12,879
Capital Outlay	\$ -0-	\$ 2,170	\$ 2,170	\$ -0-	\$ -0-	\$ -0-
Total General Fund Expenditures	\$ -0-	\$ 55,719	\$ 55,719	\$ -0-	\$ 49,049	\$ 49,049
<u>FUND INFORMATION FOR REVENUE</u>						
General Fund	\$125,541,000	\$133,149,928	\$ 7,608,928	\$134,330,000	\$143,281,680	\$ 8,951,680
Foundation Program	\$ 49,039,453	\$ 52,011,691	\$ 2,972,238	\$ 52,472,656	\$ 55,969,406	\$ 3,496,750
Debt Service Account	\$ 21,577,360	\$ 22,885,144	\$ 1,307,784	\$ 23,087,969	\$ 24,626,539	\$ 1,538,570