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INTRODUCED BY SENATE BILL NO. 414  
*R. S. Brown* *Halley Peck*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT FOR CONTRIBUTIONS MADE TO THE GENERAL ENDOWMENT FUNDS OF COMMUNITY FOUNDATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

WHEREAS, Montana currently ranks near the bottom of the 50 states with respect to per capita charitable contributions and with respect to the number of foundations, the size of foundations, and the value of foundation gifts received and foundation grants made; and

WHEREAS, community foundations are tax-exempt organizations under state and federal law and are formed to attract endowment funds and distribute their earnings for community betterment; and

WHEREAS, community foundations have been recognized as stewards of public and private charitable contributions that are invested to meet the challenges and opportunities of changing community needs; and

WHEREAS, community foundations augment the effectiveness of existing charitable organizations and have proven to be a positive benefit because they work in cooperation, not in competition, with other charitable organizations; and

WHEREAS, community foundations in Montana are uniquely qualified to establish and expand endowments to address community needs by providing leadership and resources through local, regional, and statewide organizations; and

WHEREAS, earnings of these endowments are distributed by volunteer boards of diverse community leaders to meet emerging community needs in such areas as education, arts and culture, social services, economic development, and health and the environment; and

WHEREAS, government cannot meet, nor should it be expected to meet, all of the needs of the state's communities because of its limited financial resources and because each community is in a better position to determine its own existing and future needs; and

WHEREAS, tax credits provide financial incentives that encourage contributions for the establishment or expansion of charitable endowments in Montana; and

WHEREAS, the Legislature limits the tax credit created by this act to permanent endowments within

1 community foundations because permanent endowments are the most appropriate way to serve the needs  
2 of Montana's communities; and

3 WHEREAS, for the purpose of renewing the tax credit created by this act, it is the intent of the 54th  
4 Legislature that the state's cost of administering the tax credit may not exceed 5% of the total annual  
5 credits claimed.

6

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

8

9 NEW SECTION. **Section 1. Credit for contributions to community foundations.** (1) An individual,  
10 an estate, a corporation, a partnership, a small business corporation, as defined in 15-31-201, or a limited  
11 liability company, as defined in 35-8-102, is allowed a tax credit against the taxes imposed by 15-30-103  
12 or 15-31-101 in an amount equal to 50% of the aggregate amount of charitable contributions made by the  
13 taxpayer during the year to any general endowment fund of a community foundation located in Montana.  
14 The maximum credit that an individual taxpayer may claim in a year under this section is \$500. The  
15 maximum credit that an estate or business corporation may claim under this section is \$10,000. The credit  
16 allowed under this section may not exceed the taxpayer's income tax liability.

17 (2)(a) The credit allowed under this section may not be claimed by an individual taxpayer if the  
18 taxpayer has included the contribution as a deduction under 15-30-121(1).

19 (b) The credit allowed under this section may not be claimed by a corporation if the taxpayer has  
20 included the contribution as a deduction under 15-31-114(7).

21 (3) There is no carryback or carryforward of the credit permitted under this section, and the credit  
22 must be applied to the tax year in which the donation is made.

23 (4) For the purposes of this section, "community foundation" is an organization that:

24 (a) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

25 (b) is publicly supported as defined under 26 CFR 1.170A-9(e)(10);

26 (c) meets the requirements for treatment as a single entity under 26 CFR 1.170A-9(e)(11); and

27 (d) is incorporated or established as a trust in Montana before January 1 of the year prior to the  
28 tax year for which the credit is claimed.

29

30 NEW SECTION. **Section 2. Credit for contribution to community foundations.** A corporation is

1 allowed a credit against the taxes otherwise due under 15-31-101 for charitable contributions made to any  
2 general endowment of a community foundation. The credit must be computed in accordance with the  
3 provisions of [section 1].  
4

5 **NEW SECTION. Section 3. Small business corporation, partnership, and limited liability company**  
6 **credit for community foundation contribution.** A contribution to a general endowment fund of a community  
7 foundation by a small business corporation, as defined in 15-31-201, a partnership, or a limited liability  
8 company, as defined in 35-8-102, qualifies for the credit provided in [section 1]. The credit must be  
9 attributed to shareholders, partners, or members or managers of a limited liability company in the same  
10 proportion used to report the corporation's, partnership's, or limited liability company's income or loss for  
11 Montana income tax purposes.  
12

13 **NEW SECTION. Section 4. Report on income tax credit to committee.** The department of revenue  
14 shall report to the committee at least once each year on the number and type of taxpayers claiming the  
15 credit under [section 1], the total amount of the credit claimed, and the department's cost associated with  
16 administering the credit.  
17

18 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
19 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to  
20 [section 1].

21 (2) [Sections 2 and 3] are intended to be codified as an integral part of Title 15, chapter 31, part  
22 1, and the provisions of Title 15, chapter 31, part 1, apply to [sections 2 and 3].

23 (3) [Section 4] is intended to be codified as an integral part of Title 5, chapter 18, part 1, and the  
24 provisions of Title 5, chapter 18, part 1, apply to [section 4].  
25

26 **NEW SECTION. Section 6. Effective date -- retroactive applicability.** [This act] is effective on  
27 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
28 December 31, 1994.  
29

30 **NEW SECTION. Section 7. Termination.** [This act] terminates December 31, 1999.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB414, as Introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing a tax credit for contributions made to the general endowment funds of community foundations; and providing an immediate effective date, a retroactive applicability date, and a termination date.

ASSUMPTIONS:

1. The bill applies to tax years beginning after December 31, 1994; fiscal impacts will occur first in FY1996.
2. The tax credit for contributions to a community foundation general endowment fund provided for in this bill are equal to 50% of the contribution up to \$500 for individuals and \$10,000 for estates or coporations.
3. The credit is nonrefundable; no carryovers of the credit are allowed.
4. The Department of Revenue is required to track the number and type of taxpayers claiming the credits, the total amount of credit claimed, and the administrative cost associated with the credit annually.


FISCAL IMPACT:

Expenditures:

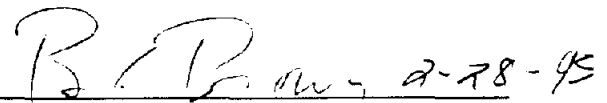
Providing for new income tax and corporation license tax forms, changes to computer systems, and other administrative expenses increases administrative costs \$1,500 in FY1996 for corporation license tax; and \$10,168 in FY1996 and \$2,850 in FY1997, and each succeeding fiscal year, for individual income tax.

Revenues:

Based on information provided by the State of Michigan, where this credit has been in place for several years, the Department of Revenue estimates that this credit will reduce tax revenue by approximately \$200,000 annually, with this amount shared 75% in individual income tax revenues and 25% in corporation license tax revenues.

 2-24-95

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

 2-28-95

BOB BROWN, PRIMARY SPONSOR      DATE  
Fiscal Note for SB414, as Introduced

SB 414

## 1 SENATE BILL NO. 414

2 INTRODUCED BY BROWN, GRINDE, HALLIGAN, PECK

3

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5 THE GENERAL ENDOWMENT FUNDS OF COMMUNITY FOUNDATIONS; AND PROVIDING AN IMMEDIATE  
6 EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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8 WHEREAS, Montana currently ranks near the bottom of the 50 states with respect to per capita  
9 charitable contributions and with respect to the number of foundations, the size of foundations, and the  
10 value of foundation gifts received and foundation grants made; and

11 WHEREAS, community foundations are tax-exempt organizations under state and federal law and  
12 are formed to attract endowment funds and distribute their earnings for community betterment; and

13 WHEREAS, community foundations have been recognized as stewards of public and private  
14 charitable contributions that are invested to meet the challenges and opportunities of changing community  
15 needs; and

16 WHEREAS, community foundations augment the effectiveness of existing charitable organizations  
17 and have proven to be a positive benefit because they work in cooperation, not in competition, with other  
18 charitable organizations; and

19 WHEREAS, community foundations in Montana are uniquely qualified to establish and expand  
20 endowments to address community needs by providing leadership and resources through local, regional,  
21 and statewide organizations; and

22 WHEREAS, earnings of these endowments are distributed by volunteer boards of diverse community  
23 leaders to meet emerging community needs in such areas as education, arts and culture, social services,  
24 economic development, and health and the environment; and

25 WHEREAS, government cannot meet, nor should it be expected to meet, all of the needs of the  
26 state's communities because of its limited financial resources and because each community is in a better  
27 position to determine its own existing and future needs; and

28 WHEREAS, tax credits provide financial incentives that encourage contributions for the  
29 establishment or expansion of charitable endowments in Montana; and

30 WHEREAS, the Legislature limits the tax credit created by this act to permanent endowments within

1 community foundations because permanent endowments are the most appropriate way to serve the needs  
2 of Montana's communities; and

3 WHEREAS, for the purpose of renewing the tax credit created by this act, it is the intent of the 54th  
4 Legislature that the state's cost of administering the tax credit may not exceed 5% of the total annual  
5 credits claimed.

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12 or 15-31-101 in an amount equal to 50% of the aggregate amount of charitable contributions made by the  
13 taxpayer during the year to any general endowment fund of a community foundation located in Montana.  
14 The maximum credit that an individual taxpayer may claim in a year under this section is \$500. The  
15 maximum credit that an estate or business corporation may claim under this section is \$10,000. The credit  
16 allowed under this section may not exceed the taxpayer's income tax liability.

17 (2)(a) The credit allowed under this section may not be claimed by an individual taxpayer if the  
18 taxpayer has included the contribution as a deduction under 15-30-121(1) OR 15-30-136(2).

19 (b) The credit allowed under this section may not be claimed by a corporation if the taxpayer has  
20 included the contribution as a deduction under 15-31-114(7).

21 (3) There is no carryback or carryforward of the credit permitted under this section, and the credit  
22 must be applied to the tax year in which the donation is made.

23 (4) For the purposes of this section, "community foundation" is an organization that:

24 (a) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

25 (b) is publicly supported as defined under 26 CFR 1.170A-9(e)(10);

26 (c) meets the requirements for treatment as a single entity under 26 CFR 1.170A-9(e)(11); and

27 (d) is incorporated or established as a trust in Montana before January 1 of the year prior to the  
28 tax year for which the credit is claimed.

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30 **NEW SECTION. Section 2. Credit for contribution to community foundations.** A corporation is

1 allowed a credit against the taxes otherwise due under 15-31-101 for charitable contributions made to any  
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 3 provisions of [section 1].

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 11 Montana income tax purposes. THE MAXIMUM CREDIT THAT A SHAREHOLDER OF A SMALL BUSINESS  
 12 CORPORATION, A PARTNER OF A PARTNERSHIP, OR A MEMBER OR MANAGER OF A LIMITED LIABILITY  
 13 COMPANY MAY CLAIM IN A YEAR IS \$500.

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 15 NEW SECTION. SECTION 4. BENEFICIARIES OF ESTATES CREDIT FOR COMMUNITY  
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 18 ANY CREDIT NOT USED BY THE ESTATE MAY BE ATTRIBUTED TO EACH BENEFICIARY OF THE ESTATE  
 19 IN THE SAME PROPORTION USED TO REPORT THE BENEFICIARY'S INCOME FROM THE ESTATE FOR  
 20 MONTANA INCOME TAX PURPOSES. THE MAXIMUM AMOUNT OF CREDIT THAT A BENEFICIARY MAY  
 21 CLAIM IS \$500, AND THE CREDIT MUST BE CLAIMED IN THE YEAR THE CONTRIBUTION IS MADE. THE  
 22 CREDIT MAY NOT BE CARRIED FORWARD OR CARRIED BACK.

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 25 shall report to the committee at least once each year on the number and type of taxpayers claiming the  
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 27 administering the credit.

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 29 NEW SECTION. Section 6. Codification instruction. ~~[Section~~ SECTIONS 1 AND 4] ~~is~~ ARE intended  
 30 to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30,

1 part 1, apply to ~~section~~ SECTIONS 1 AND 4].

2 (2) [Sections 2 and 3] are intended to be codified as an integral part of Title 15, chapter 31, part  
3 1, and the provisions of Title 15, chapter 31, part 1, apply to [sections 2 and 3].

4 (3) [Section 4 5] is intended to be codified as an integral part of Title 5, chapter 18, part 1, and  
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