

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
January 6, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present.

House Bills 65 and 66 were heard during this meeting. Executive action was taken on HB 40, HB 65 and HB 66.

HOUSE BILL 65

REPRESENTATIVE JAY FABREGA, sponsor of HB 65, read a prepared statement to the committee. (See EXHIBIT 1.)

There were no proponents or opponents testifying on HB 65.

The hearing was closed on HB 65.

HOUSE BILL 66

REPRESENTATIVE FABREGA, sponsor of HB 66, read a prepared statement to the committee. (See EXHIBIT 2.)

There were no proponents or opponents testifying on HB 66.

NORRIS NICHOLS, Administrator of the Motor Fuel Tax Division, Department of Revenue, told the committee that the division received \$8,900, during the last year in charges for out-of-state auditing. The division is requesting \$13,500 for each year of the next biennium to perform audits.

The hearing was closed on HB 66.

CHAIRMAN YARDLEY called the meeting into Executive Session at this time.

EXECUTIVE SESSION

House Bill 40

REPRESENTATIVE WILLIAMS moved HB 40 DO PASS.

REPRESENTATIVE NORDVEDT said he felt the legislature was going from one extreme to another by first demanding unreal profits from the Liquor Division to demanding no profits to be deposited into the general fund. Representative Bertelsen said the following language will still be in HB 500: "During the 1983 biennium, profits may not be less than 15% of net liquor sales."

REPRESENTATIVE REAM, referring to page 2, lines 21 and 22, asked if it would be possible to strike "83 biennium" and insert "any biennium". Jim Oppedahl, staff researcher, said HB 40 just amends session law and HB 500 terminates in July of 1983.

The motion of DO PASS was voted on and PASSED unanimously.

HOUSE BILL 65

REPRESENTATIVE HARRINGTON moved HB 65 DO PASS.

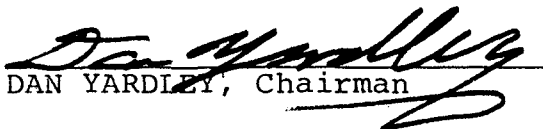
The motion of DO PASS was voted on and PASSED unanimously.


HOUSE BILL 66

REPRESENTATIVE ZABROCKI moved HB 66 DO PASS.

The motion of DO PASS was voted on and PASSED unanimously.

The meeting was adjourned at 8:45 a.m.


DAN YARDLEY, Chairman


Vicki Lofthouse, Secretary

House Bill 65 - Representative Fabrega, Sponsor

COMMENTS ON THE BILL TO PERMIT WAGES COVERED BY FEDERAL JOB CREDITS AS DEDUCTIONS FOR MONTANA INCOME TAX.

This bill is being proposed to insure that Montana businesses receive equal treatment of their wage expenses when determining their taxable income for individual income tax purposes. In particular, the bill guarantees that all ordinary wage expenses will be deductible for tax purposes, and it eliminates the possibility that state tax laws will defeat the purpose of federal tax incentives.

Many Montana businesses provide jobs of social benefit under special federal incentive programs. In return, they receive credits against federal income taxes. The credits are based on the wages paid to employees qualifying under the incentive programs. Examples of qualifying employees include handicapped persons, welfare recipients, disadvantaged youth, and former prisoners.

When wages are taken as a credit, the business is not allowed to claim the same wages as a deduction from gross income for purposes of the federal income tax. Ordinarily, wages are considered a cost of doing business and are deductible.

When a Montana business elects to take the job credit on its federal return, it is technically prevented from taking either the credit or the wage deduction on the Montana individual income tax return. The credit is not allowed because Montana does not recognize the jobs incentive credits. The deduction cannot be taken because the wages are not a deduction, in this case, for federal purposes. Montana income tax law follows federal tax law in determining wage deductions.

If another business did not elect to use the federal credits, but

instead claimed the same expenses as a deduction for wages, the wages would be a deduction for Montana income tax purposes. Thus, unequal treatment of the same expense item can occur.

The bill corrects the problem of unequal treatment by specifically allowing a Montana deduction for wages in those cases where the federal jobs credit election was made. Under the bill, businesses would receive a wage deduction on their Montana tax return without regard to elections for federal tax purposes.

The correction is only necessary for businesses required to report on an individual income tax return and not those filing a corporation return. The corporation tax statutes already specifically allow a deduction for the wages (15-31-114, MCA). Thus, the bill will make the individual income tax statute consistent with the corporation statute.

The Department does not anticipate a major revenue impact from this bill. The primary impact will be to clarify the treatment of the wage deduction when a federal jobs credit is claimed and to eliminate a potential inequity among different Montana businesses.

HOUSE BILL 66 - Representative Fabrega, Sponsor

COMMENTS ON THE BILL TO REMOVE THE REQUIREMENT THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE MOTOR FUELS AUDIT

Current state law requires that gasoline distributors and diesel fuel dealers and users pay the travel and per diem costs of an audit by the Department of Revenue when taxpayer records are located out of state. This situation will often give rise to tension or conflict between the employee of the department and the taxpayer at the time the audit costs are presented. More specifically, the following problems can or do occur:

- * Employees can encounter difficulty in collecting amounts due from the taxpayer;
- * The morale of employees is adversely affected because of the frequent conflict over payment of audit costs; and
- * The taxpayers --who are people doing business in Montana-- become irritated at Montana's law and can decide that Montana is a poor place to conduct business.

The irritation the current law produces can be understood if one imagines the reaction that a taxpayer would have to being presented a bill for an Internal Revenue Service audit for income taxes.

Charging taxpayers for tax audits is an outmoded practice. The Motor Fuels Division is the only division within the Department that is still required to charge for audits.

Eliminating this requirement will be of minimal cost. If the proposed legislation is approved, the cost of the audits to the state will be about \$13,500 annually over the next biennium. The Department has requested these funds, contingent upon the approval of this bill.

The benefits of this bill will be the elimination of unnecessary conflicts with the taxpayer, an improvement in employee morale, and an improved image of Montana as a place to do business.

STANDING COMMITTEE REPORT

January 6,

19 83

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 65

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING WAGES COVERED
BY THE FEDERAL TARGETED JOBS CREDIT OR WORK INCENTIVE PROGRAM
CREDIT AS DEDUCTIONS FOR MONTANA INCOME TAX; AMENDING SECTION
15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
AN APPLICABILITY DATE."

Respectfully report as follows: That HOUSE Bill No. 65

DO PASS

STANDING COMMITTEE REPORT

January 6, 1933

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 66

First reading copy White
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE REQUIREMENT
THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE MOTOR FUELS
AUDIT; AMENDING SECTIONS 15-70-208 AND 15-70-324, MCA."

Respectfully report as follows: That HOUSE Bill No. 66

DO PASS

January 11, 1933

against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as hereinafter provided for, interest shall be allowed on overpayments at the same rate as is charged on deficiency assessments provided in [section 1] due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department approves refunding or crediting of the overpayment. Interest shall not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. No interest shall be allowed:

(a) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(3) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall not be considered an overpayment with respect to which interest is allowable."

Renumber: subsequent section

3. Page 2, line 14.
Following: "instruction."
Strike: "Section 1 is"
Insert: "Sections 1 and 2 are"
4. Page 2, line 15.
Following: "as"
Strike: "an"
Following: "integral"
Strike: "part"
Insert: "parts"
5. Page 2, line 19.
Following: "to"
Strike: "section 1"
Insert: "sections 1 and 2"

AND AS AMENDED
DO PASS

.....DAN YARDLEY.....
Chairman.

STATE OF MONTANA

REQUEST NO. 047-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 65 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:

House Bill 65 permits wages covered by the Federal Targeted Jobs Credit or Work Incentive Program Credit as deductions for Montana income tax and provides an immediate effective date and an applicability date.

ASSUMPTIONS:

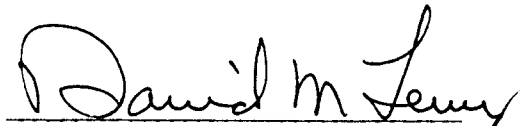
- 1) The 11,070 Montana taxpayers who took advantage of the federal jobs credit in 1979 claimed \$1,608,000 of credit. This was assumed to be 40 percent of qualifying wages.
- 2) Wages are assumed to have increased 10 percent annually.
- 3) The tax rate is 5 percent.
- 4) Returns not needing the additional deduction are not taken into account.

FISCAL IMPACT:

Since the federal government already allows this credit, some Montana taxpayers took the credit on their Montana returns. However, the federal jobs credit is not an allowable credit for Montana tax purposes. Exact numbers of those who did take the credit cannot be determined. Therefore, the figures below assume that no taxpayers previously used the credit.

	<u>1983</u>	<u>1984</u>	<u>1985</u>
Additional Deduction	6.121M	6.733M	7.405M
Individual Income Tax Collections			
Under Current Law	155.240M	167.908M	181.814M
Under Proposed Law	154.873M	167.504M	181.370M
Estimated Decrease	<u>(.367M)</u>	<u>(.404M)</u>	<u>(.444M)</u>

FISCAL NOTE2:C/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

STATE OF MONTANA

REQUEST NO. 046-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 66 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:

House Bill 66 removes the requirement that a taxpayer pay the costs of an out-of-state motor fuels audit.

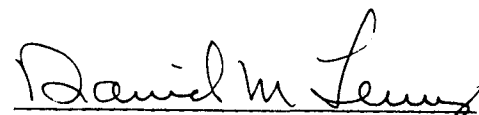
ASSUMPTION:

- 1) The Department of Revenue estimates the costs of out-of-state travel for motor fuels audits to be \$13,500 annually.
- 2) Funds for out-of-state motor fuel audit expense will be appropriated from the highway earmarked account.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Expenditures for Out-of-State Audits (Net of taxpayer reimbursements)		
Under Current Law	<u>0</u>	<u>0</u>
Under Proposed Law	<u>13,500</u>	<u>13,500</u>
Estimated increase in expenditures from the highway earmarked account	<u>13,500</u>	<u>13,500</u>

FISCAL NOTE1:EE/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83