

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 15, 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 except Representatives Abrams, Harp and Nordtvedt, who were excused. Representatives Abrams and Harp came into the meeting later.

Testimony was heard on HB 755, HB 867, HB 868 and HB 869.

Executive action was taken on HB 11, HB 890, SB 185 and SB 247.

CHAIRMAN YARDLEY said the sponsor of HB 867, HB 868 and HB 869 requested he be able to speak on all three bills together because they relate to the same subject.

HOUSE BILLS 867, 868 and 869

REPRESENTATIVE JAY FABREGA, District 44, sponsor of the bills, said the bills are identical in concept. The bills were introduced as a spin-off on HB 70 which would have allowed a 30% credit for wind products. House Bill 70 had a fiscal note of over \$100 million.

HOUSE BILL 867 allows a 35% credit against income tax for investment in the manufacture of energy conservation products. There is no fiscal note because a credit would be given for something that does not exist now. The profits from the new operation would be used to offset the credit. Representative Fabrega said this is an industry that would stand a good chance of getting a number of manufacturing plants, of those products, in the near future.

HOUSE BILL 868 would allow a credit against income tax liability for investments in the manufacture of renewable energy equipment. This would be a 35% credit.

HOUSE BILL 869 would allow a credit against income tax liability for investments in the manufacture of energy-efficient, minimally polluting wood heaters. The credit, again, would be 35%.

Proponents

JOHN LOPACH, Executive Director of the Economic Growth Council, said they support all three bills. He said they also agree with the Department of Revenue in that when we can find ways to pinpoint use of investment credits for specific industries, it is an opportunity we should not miss. Mr. Lopach said they also support HB 252, the general investment credit.

DON REED, representing the Montana Environmental Information Center, said there are three major criticisms of this type of credit:

1. The credit is not cost effective.
2. The credit will serve as a shelter for high income people.
3. The state should not have that kind of involvement in economic development policies.

In the next five to ten years, there will be a lot of use of energy products, conservation products and wood stoves. We should catch a rising industry early on.

JIM MCNAIRY, representing the Alternative Energy Resources Organization, said these bills represent a sound fiscal idea for the state of Montana. The market for all three products will be increasing in the future. They support the bills.

HAL ROBBINS, representing the Department of Health, said they support HB 829. He said the department is not encouraging the use of wood stoves but they realize people will be using wood stoves and the department wants those people to use efficient, clean-burning stoves. House Bill 869 gives the department rulemaking authority as far as implementation of this act. The purpose of such rules must be to ensure proper and efficient administration of this act; proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to this act; and the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state. Mr. Robbins said the department will not conduct actual testing but will set the standards.

DAN BUCKS, Deputy Director of the Department of Revenue, passed out copies of amendments to HB 867, HB 868 and HB 869. (See EXHIBIT 1.) Mr. Bucks said the credits only apply to new income to the state, which will prevent tax sheltering of unrelated income.

MR. BUCKS said there are three major distinctions between the tax credits in these bills and general tax credit bills:

1. There is no current fiscal impact.
2. As opposed to a 2% tax credit, these bills offer a 35% tax credit.
3. The credits contained in the three bills are targeted to specific activities.

MR. BUCKS said the offered amendments to each bill are identical for each bill. The first amendments make reference to existing codes. This is a tax credit in lieu of all state credits. If a business took the credit in the bill, that business would not be eligible for other credits for the same business. The second amendment would limit the eligible expenditures to those that are eligible for the federal investment tax credit. This amendment would make the credits easier for the Department of Revenue to administer because they would follow federal guidelines. The second amendment would exclude buildings, unless the company was rehabilitating an old plant, from the credit. The purpose of the credit was to provide for a substantial incentive for investments in these activities but not designed to make these activities forever exempt from taxes. If buildings were included there would be the potential that the facility may never pay taxes for an extremely long time.

There were no opponents testifying on the bills.

REPRESENTATIVE FABREGA, in closing, said the minimum investment has to be \$5,000, with a credit of 35%. Representative Fabrega went over the sections of the bills with the committee members.

REPRESENTATIVE FABREGA said rather than coming up with one bill, he chose to go with all three bills to be dealt with individually.

Questions from the committee were heard at this time.

REPRESENTATIVE WILLIAMS asked the sponsor of the bills if he concurred with the offered amendments. Representative Fabrega said he did.

REPRESENTATIVE WILLIAMS asked if he was correct in saying businesses that are expanding would get a credit only on the expanded portion of that business. Representative Fabrega said that was correct.

REPRESENTATIVE BERTELSEN asked if any other states have this type of investment credit. Representative Fabrega said California has a 25% credit. He said he hopes to make this credit large enough to get the desired results for Montana.

REPRESENTATIVE BERTELSEN asked if there is a maximum investment amount. Representative Fabrega said no.

REPRESENTATIVE FABREGA said if in seven years the business has not made enough profit to cover the 35% credit, then that business will be taxed.

MR. BUCKS told the committee that the credit must be reduced by the amount of any federal credit taken so that the effective credit does not exceed 60% of the investment. He said research and development costs are given a separate federal credit. Those costs are separate from the investment costs.

REPRESENTATIVE REAM said we would give tax incentives to companies coming into Montana but not for companies already in business in Montana unless they expand their business. Representative Fabrega said that is correct because the purpose of the bills is to create jobs and capture alternative energy resources.

REPRESENTATIVE REAM asked if the sponsor would consider amending the language in the bill that says "nonpolluting" and inserting "low emission" because there is no such thing as nonpolluting. Representative Fabrega referred that question to Mr. McNairy. Mr. McNairy said he would have no problem with that amendment.

The hearing was closed on HB 867, HB 868 and HB 869.

VICE-CHAIRMAN NEUMAN took over as chairman of the meeting at this time.

HOUSE BILL 755

REPRESENTATIVE DAN YARDLEY, District 74, chief sponsor of the bill, said the idea for the bill was proposed by John Driscoll, Montana Power Company. This credit is not an investment for a tax shelter, it has to be related to income. The purpose of this act is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. House Bill 755 is an act providing a credit against individual partnership, small business corporation, or corporate income tax liability for capital expenditures for commercial systems that generate electricity by means of wind power.

REPRESENTATIVE YARDLEY said HB 755 includes many of the same issues included in HB 867, HB 868 and HB 869. There must be a minimum investment of \$5,000 in a commercial system located in Montana which generates electricity by means of wind power. That investor is then eligible to an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

1. Manufacturing plants located in Montana that produce wind energy generating equipment;
2. A new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or
3. The wind energy generating equipment in which the investment for which a credit is being claimed was made.

REPRESENTATIVE YARDLEY said no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Proponents

ED STEARN, representing the City of Livingston, said HB 755 is not an energy bill, per se. It is an economic development bill. The City of Livingston has documented interest from large groups and small groups who would like to use the Livingston area for development of wind energy. A lot of this initiative has come from the Livingston area but applicability is widespread. This is not a bill with one area in mind. He said HB 755 has an applicability date of 1984 but asked this committee to consider amending that date and having this act effective upon passage and approval of the bill. There is a chance the federal energy tax credit may expire in 1985. Mr. Stearn asked that the committee act favorably on HB 755.

JOHN LOPACH, Executive Director of the Economic Growth Council, said they support HB 755. There are not that many kinds of manufacturing firms that can locate in the state of Montana, those who can should be encouraged to do so. Mr. Lopach said Montana Power must buy electricity at a higher rate than the industry pays for it.

DON REED, representing the Montana Environmental Information Center, said HB 755 is cost effective and does not provide tax shelters for those people with large incomes. Mr. Reed said there are three main reasons for passing this bill:

1. Choice of wind for job creation is a wise one.
2. A credit like this would attract businesses to Montana.
3. It enhances the value of existing hydropower.

JIM MCNAIRY, representing the Alternative Energy Resources Organization, said the organization he represents would like to go on record in support of this bill for reasons state before.

REPRESENTATIVE JAY FABREGA said this credit, as with the credits in HB 867, HB 868 and HB 869, applies to individuals, partnerships, small business corporations or regular corporations. He urged a do pass on HB 755.

DAN BUCKS, Deputy Director of the Department of Revenue, said his comments made on the previous three bills are also relevant to this bill, as well. There will be no loss of revenue from this bill because it would be a foregoing of taxes from any future businesses. Mr. Bucks said there is a difference between HB 755 and the previous bills heard today, in terms of the concept of allowing the credit to be claimed against the taxes

due by a new direct sales contract customer that is purchasing electricity from the generating facility. The department interprets the bill, as drafted, as being new business activity within the state of Montana that is purchasing the electricity. The department would draft rules, suggesting the credit be allowed only against taxes due as a consequence of new economic activity in the state, limited to new facilities directly in Montana. He said that is not clear and asked this committee to address that issue.

MR. STEARN said he restricted his remarks to job potential as a result of the passage of HB 755. This bill is also an energy stimulation bill.

MR. BUCKS passed out copies of amendments to HB 755. He said they are the same type of amendments as what was offered on the previous three bills heard today. (See EXHIBIT 2.)

REPRESENTATIVE WILLIAMS asked if this bill would provide a credit on reconstruction of equipment that continually falls apart. Mr. Bucks referred to Section 7, subsection 3, of the bill, and said that could be interpreted that the repair of old equipment does not qualify.

REPRESENTATIVE HARP was present at the meeting at this time.

REPRESENTATIVE SWITZER asked if there is a generating facility that is actually functioning now in Livingston. Mr. Stearn said the wind farm has been operating flawlessly since December. There had been repairs on the equipment before December, but since December there has been no repairs. Mr. Stearn said they are very close to being an industrial facility with very little maintenance.

REPRESENTATIVE BERTELSEN asked how these facilities will be assessed. Mr. Bucks said it depends on the nature of the facility. If the facility is wholly contained in a county and hooked up to a transmission line in that county, the facility would be assessed at the county level. If the facility is a multi-county facility, had a new transmission line and crossed county lines, it would be centrally assessed through the Helena office.

REPRESENTATIVE YARDLEY, in closing, said California has a farm of 400 windmills and part of that might be attributed to the tax credit offered in California. He said this is a new field. It is experimental but it is economically feasible. He urged the committee's support of the bill.

The hearing on HB 755 was closed.

REPRESENTATIVE YARDLEY took over as chairman of the meeting again.

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

EXECUTIVE SESSION

House Bill 11

REPRESENTATIVE WILLIAMS moved HB 11 BE TABLED.

The motion was voted on and PASSED unanimously.

CHAIRMAN YARDLEY said he would like to take action, if possible, on the investment credit bills.

REPRESENTATIVE VINGER said this committee should not look at small business investment tax credits as a loss of revenue because there is some question on the part of the state as to whether the credit is at 20% or 0%. That is the state's mistake and this issue should have been provided for in the state budget estimates.

REPRESENTATIVE WILLIAMS suggested tabling the investment credit bills until the state budget has been finalized.

REPRESENTATIVE ASAY said the purpose of a tax credit is to help in decisions of whether or not to buy something.

REPRESENTATIVE WILLIAMS said capital investment credits have done very little for the economy nationwide.

REPRESENTATIVE KEENAN said HB 739 is a compromise. Eight-five percent of the farmers claiming a credit received \$500 or less.

REPRESENTATIVE DOZIER said study after study has proved that tax credits do not provide anything. When we can afford it, it is nice to give a credit but when the state cannot afford it, we should not have credits.

REPRESENTATIVE SWITZER said investment tax credits are important factors in every equipment purchase.

House Bill 858

REPRESENTATIVE ZABROCKI moved HB 858 DO PASS.

REPRESENTATIVE HARP referred the committee to offered amendments to HB 858. (See EXHIBIT 3.)

REPRESENTATIVE ASAY said the wholesalers should not have to buy the stamp machine from the state. He said he thinks the state should buy the machine for the wholesalers.

REPRESENTATIVE UNDERDAL said he spoke with a wholesaler and was told each machine costs about \$20,000.

REPRESENTATIVE ZABROCKI moved the amendments to HB 858.

The motion was voted on and PASSED unanimously.

Both Representative Williams and Representative Ream said they would like to know what costs are involved with the wholesalers' business and if the percentage increase will cover those costs. Mr. Bucks said the department will provide information showing the increased administrative costs provided in HB 858 if HB 511 does not pass and the total increased administrative costs provided for if HB 511 does pass.

CHAIRMAN YARDLEY said this committee will pass this bill until tomorrow when the information is received from the department.

House Bill 890

REPRESENTATIVE BERTELSEN moved HB 890 DO PASS.

REPRESENTATIVE DOZIER said this bill only applies to non-staggered vehicles. He said he thinks Representative Hand, sponsor of the bill, wants the bill to apply to staggered vehicles. He said he supports the idea of the bill but does not want to pass the bill if it doesn't do what the sponsor intended it to do.

JIM OPPEDAHL, legislative researcher for the Legislative Council, said Representative Hand wanted to eliminate the proration on vehicles only for light vehicles on the staggered system. All of the light vehicles are on the staggered system. The sections referred to in the bill cover the staggered system.

CHAIRMAN YARDLEY referred the committee to amendments offered by the Department of Highways. (See EXHIBIT 4.)

REPRESENTATIVE BERTELSEN moved the amendments to HB 890.

The motion was voted on and PASSED unanimously.

CHAIRMAN YARDLEY asked if the statement of intent needed to be passed. Mr. Oppedahl said the statement of intent, for this bill, is not required because the bill does not expand rule-making authority. In theory, the statement of intent is required only if you are providing new rulemaking authority.

REPRESENTATIVE BERTELSEN amended his motion to HB 890 as DO PASS AS AMENDED.

The motion was voted on and PASSED unanimously.

Senate Bill 185

REPRESENTATIVE ZABROCKI moved SB 185 BE CONCURRED IN. He said Representative Holliday, cosponsor of the bill, would carry the bill on the floor of the House.

The motion was voted on and PASSED. All committee members voted yes except Representative Neuman, who voted no.

Senate Bill 247

CHAIRMAN YARDLEY said this bill is a retroactive senior citizen tax credit for railroad retirees who did not qualify for the property tax credit when it was passed in 1981.

REPRESENTATIVE HARP asked if this credit was included in the executive's or LFA's budgets. Ms. Feaver said no.

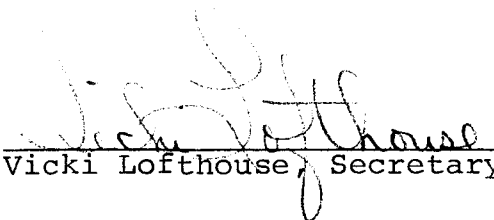
REPRESENTATIVE WILLIAMS moved SB 247 BE CONCURRED IN.

The motion was voted on and PASSED unanimously.

CHAIRMAN YARDLEY said he will rerefer this bill to the Appropriations Committee.

The meeting was adjourned at 11:00 a.m.


DAN YARDLEY, Chairman


Vicki Lofthouse, Secretary

Proposed Amendments H.B. 867

Page 3, line 17

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ", "

Page 3, line 18

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided
by SB 241)

Proposed Amendments H.B. 867

Page 1, line 24

Following: "more in"

Insert: "certain depreciable property qualifying under
section 38 of the Internal Revenue Code of 1954,
as amended, for"

Proposed Amendments H.B. 868

Page 1, line 24

Following: "more in"

Insert: "certain depreciable property qualifying under
section 38 of the Internal Revenue Code of
1954, as amended, for"

Proposed Amendments H.B. 868

Page 3, line 22

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ", "

Page 3, line 23

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided
by SB 241)

Proposed Amendments H.B. 869

Page 3, line 19

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ", "

Page 3, line 20

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided
by SB 241)"

Proposed Amendments H.B. 869

Page 2, line 2

Following: "more in"

Insert: "certain depreciable property qualifying under
section 38 of the Internal Revenue Code of 1954,
as amended, for"

Proposed Amendments H.B. 755

Page 4, line 6

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ", "

Page 4, line 7

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided
by SB 241)

Proposed Amendments H.B. 755

Page 2, line 4

Following: "more in".

Insert: "certain depreciable property qualifying under
section 38 of the Internal Revenue Code of 1954,
as amended, for"

Page 2, line 21

Following: "those"

Insert: "expenditures that qualify under section 38 of the
Internal Revenue Code of 1954, as amended, and
that are"

PROPOSED AMENDMENTS TO HB 858

1. Page 1, line 13.

Following: "~~3%~~"

Strike: "7%"

Insert: "the following percentage"

2. Page 1, line 16.

Following: "Montana"

Insert: ": (1) 6% for the first 2580 cartons or portion thereof purchased in any calendar month;

(2) 4% for the next 2580 cartons or portion thereof purchased in any calendar month; and

(3) 3% for purchases in excess of 5160 cartons in any calendar month"

3. Page 2, line 12.

Following: "defrayment"

Strike: "of"

Following: "~~3%~~"

Strike: "7%"

House Bill No. 890

Amendments proposed by the Department of Highways.

Page 1, line 23.

Following: "month"

Insert: "or"

Page 4, line 20.

Following: "period"

Strike: "of not less than 11 months and not more than 13 months"

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VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL HB 755

Date 3-15-83

SPONSOR Rep. Yardley

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name ED STERN Committee On TAXATION
Address 414 E. CALLENDER Date 3/15/83
Representing CITY OF LIVINGSTON Support X
Bill No. HB 755 Oppose _____
Amend effective on passage

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. JOB CREATION
2. ENERGY STABILIZATION
3. NO COST TO STATE
4. BROADEN BASE INDUSTRY IN STATE

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITORS' REGISTER

HOUSE

Taxation

COMMITTEE

BILL

HB 869

Date

3-15-83

SPONSOR

fabrega

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

Taxation

COMMITTEE

BILL

HB 867

Date 3-15-83

SPONSOR

Rep. fabrega

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Statement of Intent

Bill No. 868 [LC 1396]

A statement of intent is required for this bill because it gives the Department of Revenue rulemaking authority in section 7. The Legislature intends that the rules address reporting of investments and a means of determining whether the income is associated with an eligible facility. The rules may also address any forms or procedures the Department considers necessary.

STATE OF MONTANA

REQUEST NO. 460-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, 1983, there is hereby submitted a Fiscal Note for House Bill 869 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.

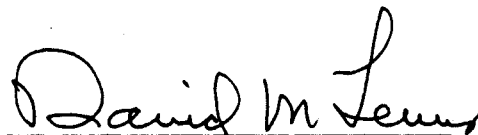
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 869 provides a credit against income tax liability for investments in the manufacture of energy-efficient, minimally polluting wood heaters; provides for limitation on and carryover of the credit; provides rulemaking authority; and provides an applicability date.

FISCAL IMPACT:

Income from existing facilities will not be eligible for the tax credit created by this bill, therefore, no erosion of the present tax base will be produced. Assuming the bill is successful in attracting industry that would not locate in the state without the credit, no real loss of revenue will be forthcoming. The bill will only forestall tax collections from income produced by these investments.

FISCAL NOTE 15:0/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

STATE OF MONTANA

REQUEST NO. 459-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 868 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.

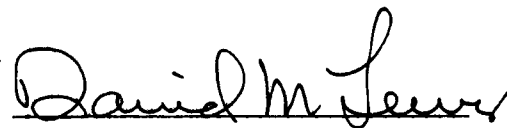
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 868 provides a credit against income tax liability for investments in the manufacture of renewable energy equipment; provides for limitation on and carryover of the credit; provides rulemaking authority; and provides an applicability date.

FISCAL IMPACT:

Income from existing facilities will not be eligible for the tax credit created by this bill, therefore, no erosion of the present tax base will be produced. Assuming the bill is successful in attracting industry that would not locate in the state without the credit, no real loss of revenue will be forthcoming. The bill will only forestall tax collections from income produced by these investments.

FISCAL NOTE 16: I/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

STANDING COMMITTEE REPORT

Page 1 of 2

March 23, 1983

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **755**

First reading copy (**White**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST
INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE
INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL
SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING
FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; AND PROVIDING AN
APPLICABILITY DATE."**

Respectfully report as follows: That **HOUSE** Bill No. **755**
be amended as follows:

1. Page 2, line 4.

Following: "in"

Insert: "certain depreciable property qualifying under section
38 of the Internal Revenue Code of 1954, as amended, for"

2. Page 2, line 21.

Following: "those"

Insert: "expenditures that qualify under section 38 of the
Internal Revenue Code of 1954, as amended, and that are"

3. Page 4, line 6.

Following: "15-30-152"

Strike: "and"

Insert: ", "

XXXXXX
66-1186

March 23,

1983

4. Page 4, line 7.

Following: "15-31-123"

Insert: "through 15-31-125 [and the credits provided in
SB 241]"

5. Page 5, line 2.

Following: line 1

Insert: "Section 8. Coordination instruction.

If Senate Bill No. 241 is not passed and approved,
the bracketed language in section 5 is deleted from
this act."

Renumber: subsequent section

AND AS AMENDED
DO PASS

.....DAN YARDLEY,

Chairman.