

HOUSE BILL NO. 94

INTRODUCED BY NORDTVEDT

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 9, 1979	Introduced and referred to Committee on Taxation.
February 9, 1979	Committee recommend bill do pass as amended. Report adopted.
February 10, 1979	Printed and placed on members' desks.
February 12, 1979	Second reading, do pass.
February 13, 1979	Considered correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 15, 1979	Introduced and referred to Committee on Taxation.
March 2, 1979	Committee recommend bill be concurred in. Report adopted.
March 5, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE HOUSE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY  
 6 THE LAW RELATING TO THE ALLOWANCE OF AN INVESTMENT CREDIT  
 7 FOR CERTAIN DEPRECIABLE PROPERTY AGAINST INDIVIDUAL INCOME  
 8 TAXES AND CORPORATION LICENSE OR INCOME TAXES; AMENDING  
 9 SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND  
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13 Section 1. Section 15-30-161, MCA, is amended to read:

14 "15-30-161. Purpose and definition. (1) The purpose of  
 15 15-30-162 is to allow individuals, ~~estates, trusts,~~ and  
 16 small businesses that meet the definition established in  
 17 this section to take ~~one-fifth investment credit allowed~~  
 18 ~~against federal taxes an investment credit as provided for~~  
 19 ~~in 15-30-162~~ and thus to stimulate capital investment by the  
 20 small business sector.

21 (2) For the purposes of 15-30-162, "small business"  
 22 means a business that is eligible to elect to be taxed under  
 23 the provisions of 15-31-202, whether or not such election is  
 24 made."

25 Section 2. Section 15-30-162, MCA, is amended to read:

1 "15-30-162. Investment credit. (1) There is allowed as  
 2 a credit against the taxes imposed by 15-30-103 and  
 3 15-30-104 a percentage of the investment--in--certain  
 4 depreciable property equal to one-fifth--the--percentage--of  
 5 investment--in--such-property credit allowed with respect to  
 6 certain depreciable property under section 38 of the  
 7 Internal Revenue Code of 1954, as amended, or as section 38  
 8 may be renumbered or amended.

9 (2) ~~The amount of the credit allowed for the taxable~~  
 10 ~~year is the sum of:~~

11 (a) ~~20% of the amount of credit determined under~~  
 12 ~~section 46(a)(2) of the Internal Revenue Code of 1954, as~~  
 13 ~~amended, or as section 46(a)(2) may be renumbered or~~  
 14 ~~amended;~~

15 (b) ~~the investment credit carryovers carried to the~~  
 16 ~~taxable year as provided in subsection (4); and~~

17 (c) ~~the investment credit carrybacks carried to the~~  
 18 ~~taxable year as provided for in subsection (4).~~

19 (3) ~~Notwithstanding the provisions of subsection (2),~~  
 20 ~~the investment credit allowed for the taxable year may not~~  
 21 ~~exceed the taxpayer's tax liability for the taxable year. In~~  
 22 ~~the event the taxpayer's tax liability for the taxable year~~  
 23 ~~exceeds \$5,000, the investment credit may not exceed \$5,000~~  
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 25 ~~case of a husband and wife who file separate returns, the~~

1 investment credit may not exceed \$2,500 plus 20% of the tax  
 2 liability in excess of \$2,500 unless the spouse of the  
 3 taxpayer has no qualified investment for and no unused  
 4 credit carryback or carryover to the taxable year of the  
 5 spouse that ends with or within the taxpayer's taxable year.

6 (4) If any part of the investment credit is not  
 7 applied against the tax liability for the taxable year  
 8 because of the limitations imposed under subsection (3), the  
 9 unused portion shall be carried back and carried forward in  
 10 accordance with the provisions of section 46(b) of the  
 11 Internal Revenue Code of 1954, as amended, or as section  
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13 (5) The investment credit allowed by this section is  
 14 subject to recapture as provided for in section 47 of the  
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17 (b) the investment credit carryovers carried to the  
 18 taxable year as provided in subsection (6); and

19 (c) the investment credit carrybacks carried to the  
 20 taxable year as provided for in subsection (5).

21 (5) Notwithstanding the provisions of subsection (4),  
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13 Section 4. Effective date. This act is effective on  
14 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 19-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 16, 19 79, there is hereby submitted a Fiscal Note for House Bill 94 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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:

This bill would revise and clarify the law relating to the allowance of an investment credit for certain depreciable property against individual income taxes and corporation license or income taxes.

ASSUMPTIONS:

It is assumed that the bill, as given by the version marked "Introduced Bill", will simply legitimize the current practice, and will necessitate no additional administrative expense. However, see Technical Note.

FISCAL IMPACT:

None.

TECHNICAL NOTE:

COMMENT: It is estimated that the fiscal impact of already allowing the 20% investment credit is \$1.6 million lost annually from Corporation License/Income Tax, and \$5.4 million lost annually from Individual Income Tax. (If the credit was changed to 50% of the Federal investment credit, Corporation Tax would be reduced by an additional \$1.5 million, and Individual Income Tax would be reduced annually by an additional \$8 million. At 100%, each year the Corporation Tax would be reduced \$3 million, and Individual Income Tax would be reduced by about \$21.5 million, from present law levels.)

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4/22/79

STATE OF MONTANA

REQUEST NO. 19-79 (Amended)

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 79, there is hereby submitted a Fiscal Note for House Bill 94 Amendments pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

This proposed bill revises and clarifies the law relating to the allowance of an investment credit for certain depreciable property against individual income taxes and corporation license or income taxes; and provides an immediate effective date.

ASSUMPTIONS

It is believed that the impact of the proposed amendments on individual income tax will not be a large reduction in receipts since there seem to be relatively few individual taxpayers whose investment credit exceeds \$2500. However, it is believed that the proposed amendments would have a substantial effect upon corporation license tax receipts, and most of the decrease in tax collections would be attributable to increased tax credits received by large, multi-state corporations. The Department of Revenue is not able to estimate the fiscal impact of the proposed bill with any greater precision, due to lack of data.

PREPARED BY DEPARTMENT OF REVENUE

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/5/79

Approved by Committee  
on Taxation

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

Section 1. Section 15-30-161, MCA, is amended to read:

"15-30-161. Purpose and definition. (1) The purpose of 15-30-162 is to allow individuals, estates, trusts, and small businesses that meet the definition established in this section to take one-fifth-investment-credit-allowed against-federal-taxes an investment credit as provided for in 15-30-162 and thus to stimulate capital investment by the small business sector.

(2) For the purposes of 15-30-162, "small business" means a business that is eligible to elect to be taxed under the provisions of 15-31-202, whether or not such election is made."

Section 2. Section 15-30-162, MCA, is amended to read:

\*15-30-162. Investment credit. (1) There is allowed as a credit against the taxes imposed by 15-30-103 and 15-30-104 a percentage of the investment--in--certain depreciable-property--equal--to--one-fifth--the--percentage--of investment--in--such-property credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended.

(2) The amount of the credit allowed for the taxable year is the sum of:

(a) 20% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (4); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (4).

(3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 28% 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns,

1 the investment credit may not exceed \$2,500 plus 20% 50% of  
 2 the tax liability in excess of \$2,500 unless the spouse of  
 3 the taxpayer has no qualified investment for and no unused  
 4 credit carryback or carryover to the taxable year of the  
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6 (4) If any part of the investment credit is not  
 7 applied against the tax liability for the taxable year  
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