

CHAPTER NO. ///.

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.

House BILL NO. 94

1 2 INTRODUCED BY K. Knutte

3 4 BY REQUEST OF THE DEPARTMENT OF REVENUE

5 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
7 8 THE LAW RELATING TO THE ALLOWANCE OF AN INVESTMENT CREDIT
9 10 FOR CERTAIN DEPRECIABLE PROPERTY AGAINST INDIVIDUAL INCOME
11 12 TAXES AND CORPORATION LICENSE OR INCOME TAXES; AMENDING
13 14 SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND
15 16 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

17 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 20 Section 1. Section 15-30-161, MCA, is amended to read:
21 22 "15-30-161. Purpose and definition. (1) The purpose of
23 24 15-30-162 is to allow individuals, estates, trusts, and
25 26 small businesses that meet the definition established in
27 28 this section to take one-fifth-investment-credit-allowed
28 29 against-federal-taxes an investment credit as provided for
29 30 in 15-30-162 and thus to stimulate capital investment by the
30 31 small business sector.

32 33 (2) For the purposes of 15-30-162, "small business"
34 35 means a business that is eligible to elect to be taxed under
36 37 the provisions of 15-31-202, whether or not such election is
38 39 made."

40 41 Section 2. Section 15-30-162, MCA, is amended to read:

42 43 "15-30-162. Investment credit. (1) There is allowed as
44 45 a credit against the taxes imposed by 15-30-103 and
46 47 15-30-104 a percentage of the investment--in--certain
48 49 depreciable--property--equal--to--one--fifth--the--percentage--of
50 51 investment--in--such--property credit allowed with respect to
52 53 certain depreciable property under section 38 of the
54 55 Internal Revenue Code of 1954, as amended, or as section 38
56 57 may be renumbered or amended.

58 59 (2) The amount of the credit allowed for the taxable
60 61 year is the sum of:

62 63 (i) 20% of the amount of credit determined under
64 65 section 46(a)(2) of the Internal Revenue Code of 1954, as
66 67 amended, or as section 46(a)(2) may be renumbered or
68 69 amended;

70 71 (ii) the investment credit carryovers carried to the
72 73 taxable year as provided in subsection (4); and

74 75 (iii) the investment credit carrybacks carried to the
76 77 taxable year as provided for in subsection (4).

78 79 (3) Notwithstanding the provisions of subsection (2),
80 81 the investment credit allowed for the taxable year may not
82 83 exceed the taxpayer's tax liability for the taxable year. In
84 85 the event the taxpayer's tax liability for the taxable year
86 87 exceeds \$5,000, the investment credit may not exceed \$5,000
88 89 plus 20% of the tax liability in excess of \$5,000. In the
90 91 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
 12 46(b) may be renumbered or amended.

13 (5) The investment credit allowed by this section is
 14 subject to recapture as provided for in section 47 of the
 15 Internal Revenue Code of 1954, as amended, or as section 47
 16 may be renumbered or amended.

17 Section 3. Section 15-31-123, MCA, is amended to read:
 18 "15-31-123. Investment credit. (1) The purpose of this
 19 section is to allow individuals, estates, trusts, and small
 20 businesses that meet the definition established in this
 21 section to take one-fifth-investment-credit-allowed--against
 22 federal--taxes an investment credit as provided for in
 23 subsection (3) and thus to stimulate capital investment by
 24 the small business sector.

25 (2) For the purposes of this section, "small business"

1 means a business that is eligible to elect to be taxed under
 2 the provisions of 15-31-202, whether or not such election is
 3 made.

4 (3) There is allowed as a credit against the taxes
 5 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 6 of the investment-in-certain-depreciable-property-equal-to
 7 one-fifth-the-percentage--of--investment--in--such--property
 8 credit allowed with respect to certain depreciable property
 9 under section 38 of the Internal Revenue Code of 1954, as
 10 amended, or as section 38 may be renumbered or amended.

11 (4) The amount of the credit allowed for the taxable
 12 year is the sum of:

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

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),
 22 the investment credit allowed for the taxable year may not
 23 exceed the taxpayer's tax liability for the taxable year. In
 24 the event the taxpayer's tax liability for the taxable year
 25 exceeds \$5,000, the investment credit may not exceed \$5,000.

1 plus 20% of the tax liability in excess of \$5,000.

2 (6) If any part of the investment credit is not
3 applied against the tax liability for the taxable year
4 because of the limitations imposed under subsection (5), the
5 unused portion shall be carried back and carried forward in
6 accordance with the provisions of section 46(b) of the
7 Internal Revenue Code of 1954, as amended, or as section
8 46(b) may be renumbered or amended.

9 (7) The investment credit allowed by this section is
10 subject to recapture as provided for in section 47 of the
11 Internal Revenue Code of 1954, as amended, or as section 47
12 may be renumbered or amended."

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.)

Richard L. Ziegler

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/22/79

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

Richard L. Drury Jr.
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 3/5/79

Approved by Committee
on Taxation

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. III 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.

9 121. The amount of the credit allowed for the taxable
10 year is the sum of:

11 is 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 15.11.15 the investment credit carryovers carried to the
16 taxable year as provided in subsection (4); and

17 17.1 the investment credit carrybacks carried to the
18 taxable year as provided for in subsection 141(4)

19 13) 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
24 plus 20% 50% of the tax liability in excess of \$5,000. In
25 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
 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
 12 46(b) may be renumbered or amended.

13 (5) The investment credit allowed by this section is
 14 subject to recapture as provided for in section 47 of the
 15 Internal Revenue Code of 1954, as amended, or as section 47
 16 may be renumbered or amended."

17 Section 3. Section 15-31-123, MCA, is amended to read:
 18 "15-31-123. Investment credit. (1) The purpose of this
 19 section is to allow individuals, estates, trusts, and small
 20 businesses that meet the definition established in this
 21 section to take one-fifth-investment-credit-allowed--against
 22 federal--taxes an investment credit as provided for in
 23 subsection (3) and thus to stimulate capital investment by
 24 the small business sector.

25 (2) For the purposes of this section, "small business"

1 means a business that is eligible to elect to be taxed under
 2 the provisions of 15-31-202, whether or not such election is
 3 made.

4 (3) There is allowed as a credit against the taxes
 5 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 6 of the ~~investment-in-certain-depreciable-property-equals-to~~
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 10 amended, or as section 38 may be renumbered or amended.

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 12 year is the sum of:

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

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 (6).

21 (5) Notwithstanding the provisions of subsection (4),
 22 the investment credit allowed for the taxable year may not
 23 exceed the taxpayer's tax liability for the taxable year. In
 24 the event the taxpayer's tax liability for the taxable year
 25 exceeds \$5,000, the investment credit may not exceed \$5,000.

1 plus 20% 50% of the tax liability in excess of \$5,000.

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3 applied against the tax liability for the taxable year
4 because of the limitations imposed under subsection (5), the
5 unused portion shall be carried back and carried forward in
6 accordance with the provisions of section 46(b) of the
7 Internal Revenue Code of 1954 as amended, or as section
8 46(b) may be renumbered or amended.

9 (7) The investment credit allowed by this section is
10 subject to recapture as provided for in section 47 of the
11 Internal Revenue Code of 1954 as amended, or as section 47
12 may be renumbered or amended."

13 Section 4. Effective date. This act is effective on
14 passage and approval.

-End-

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BY REQUEST OF THE DEPARTMENT OF REVENUE

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6 THE LAW RELATING TO THE ALLOWANCE OF AN INVESTMENT CREDIT
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19 in 15-30-162 and thus to stimulate capital investment by the

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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.

9 121. The amount of the credit allowed for the taxable
10 year is the sum of:

11 for 20% of the amount of credit determined under
12 section 461(a)(2) of the Internal Revenue Code of 1954, as
13 amended, or as section 461(a)(2) may be renumbered or
14 amended;

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

17 1c1. the investment credit carrybacks carried to the
18 taxable year as provided for in subsection 141.

19 131. Notwithstanding the provisions of subsection 121,
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
24 plus 20% 50% of the tax liability in excess of \$5,000. In
25 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
 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
 12 46(b) may be renumbered or amended.

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 14 subject to recapture as provided for in section 47 of the
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 21 section to take one-fifth-investment-credit-allowed--against
 22 federal--taxes an investment credit as provided for in
 23 subsection (3) and thus to stimulate capital investment by
 24 the small business sector.

25 (2) For the purposes of this section, "small business"

1 means a business that is eligible to elect to be taxed under
 2 the provisions of 15-31-202, whether or not such election is
 3 made.

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 5 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 6 of the investment-in-certain-depreciable-property-allowed-to
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 8 credit allowed with respect to certain depreciable property
 9 under section 38 of the Internal Revenue Code of 1954, as
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11 (4) The amount of the credit allowed for the taxable
 12 year is the sum of:

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

17 (b) the investment credit carryovers carried to the
 18 taxable year as provided in subsection (6)(i) and
 19 (c) the investment credit carrybacks carried to the
 20 taxable year as provided for in subsection (6)(a).

21 (5) Notwithstanding the provisions of subsection (4),
 22 the investment credit allowed for the taxable year may not
 23 exceed the taxpayer's tax liability for the taxable year. In
 24 the event the taxpayer's tax liability for the taxable year
 25 exceeds \$5,000, the investment credit may not exceed \$2,500.

1 plus 20% 50% of the tax liability in excess of \$5,000.
2 (6) If any part of the investment credit is not
3 applied against the tax liability for the taxable year
4 because of the limitations imposed under subsection (5), the
5 unused portion shall be carried back and carried forward in
6 accordance with the provisions of section 46(b) of the
7 Internal Revenue Code of 1954, as amended, or as section
8 46(b) may be renumbered or amended.
9 (7) The investment credit allowed by this section is
10 subject to recapture as provided for in section 47 of the
11 Internal Revenue Code of 1954, as amended, or as section 47
12 may be renumbered or amended."

13 Section 4. Effective date. This act is effective on
14 passage and approval.

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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
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9 SECTIONS 15-30-161, 15-30-162, AND 15-31-123, MCA; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

18. 25 AT TWENTY ON 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.

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
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10 year is the sum of:

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18 taxable year as provided for in subsection (4).

19 131. Notwithstanding the provisions of subsection 121,
20 the investment credit allowed for the taxable year may not
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22 the event the taxpayer's tax liability for the taxable year
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24 plus 20% S03 of the tax liability in excess of \$5,000. In
25 the case of a husband and wife who file separate returns,

1 the investment credit may not exceed \$2,500 plus 20% 50% of
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 22 federal--taxes an investment credit as provided for in
 23 subsection (3) and thus to stimulate capital investment by
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25 (2) For the purposes of this section, "small business"

1 means a business that is eligible to elect to be taxed under
 2 the provisions of 15-31-202, whether or not such election is
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 5 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
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 12 year is the sum of:

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 18 taxable year as provided in subsection (6); and

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3 applied against the tax liability for the taxable year
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5 unused portion shall be carried back and carried forward in
6 accordance with the provisions of section 46(b) of the
7 Internal Revenue Code of 1954, as amended, or as section
8 46(b) may be renumbered or amended.
9 (7) The investment credit allowed by this section is
10 subject to recapture as provided for in section 47 of the
11 Internal Revenue Code of 1954, as amended, or as section 47
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13 Section 4. Effective date. This act is effective on
14 passage and approval.

-End-