

HOUSE BILL NO. 648

Introduced: 02/04/83

Referred to Committee on Taxation: 02/04/83

Hearing: 2/16/83

Died in Committee

1 House BILL NO. 648
 2 INTRODUCED BY Montwell Hamer

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN ADDITIONAL
 5 INVESTMENT CREDIT FOR THE COST OF A QUALIFIED INVESTMENT
 6 THAT EXCEEDS THE TAXPAYER'S DEPRECIATION; AMENDING SECTIONS
 7 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4,
 8 LAWS OF 1981; AND PROVIDING AN APPLICABILITY DATE AND AN
 9 IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-30-162, MCA, is amended to read:

13 "15-30-162. Investment credit. (1) There is allowed as
 14 a credit against the tax imposed by 15-30-103 a percentage
 15 of the credit allowed with respect to certain depreciable
 16 property under section 38 of the Internal Revenue Code of
 17 1954, as amended, or as section 38 may be renumbered or
 18 amended.

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

21 (a) 30% 20% of the amount of credit determined under
 22 section 46(a)(2) of the Internal Revenue Code of 1954, as
 23 amended, or as section 46(a)(2) may be renumbered or
 24 amended;

25 (b) 3% of the excess of the cost of an investment that

1 qualifies for the investment credit under subsection (2)(a)
 2 over the taxpayer's total depreciation for the taxable year;

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

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

7 (3) Notwithstanding the provisions of subsection (2),
 8 the investment credit allowed for the taxable year may not
 9 exceed the taxpayer's tax liability for the taxable year. In
 10 the event the taxpayer's tax liability for the taxable year
 11 exceeds \$5,000, the investment credit may not exceed \$5,000
 12 plus 50% of the tax liability in excess of \$5,000. In the
 13 case of a husband and wife who file separate returns, the
 14 investment credit may not exceed \$2,500 plus 50% of the tax
 15 liability in excess of \$2,500 unless the spouse of the
 16 taxpayer has no qualified investment for and no unused
 17 credit carryback or carryover to the taxable year of the
 18 spouse that ends with or within the taxpayer's taxable year.

19 (4) If any part of the investment credit is not
 20 applied against the tax liability for the taxable year
 21 because of the limitations imposed under subsection (3), the
 22 unused portion shall be carried back and carried forward in
 23 accordance with the provisions of section 46(b) of the
 24 Internal Revenue Code of 1954, as amended, or as section
 25 46(b) may be renumbered or amended.

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

Section 2. Section 15-31-123, MCA, is amended to read:

"15-31-123. Investment credit. (1) The purpose of this section is to allow small businesses to take an investment credit as provided for in subsection (3) and to stimulate capital investment by the small business sector.

(2) For the purposes of this section, "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.

(3) There is allowed as a credit against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the 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.

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

(a) ~~30%~~ 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) 2% of the excess of the cost of an investment that qualifies for the investment credit under subsection (2)(a) over the taxpayer's total depreciation for the taxable year;~~

~~(b)(c)~~ the investment credit carryovers carried to the taxable year as provided in subsection (6); and

~~(c)(d)~~ the investment credit carrybacks carried to the taxable year as provided for in subsection (6).

(5) Notwithstanding the provisions of subsection (4), 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 50% of the tax liability in excess of \$5,000.

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

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

Section 3. Chapter 520, section 4, Laws of 1981, is

1 amended to read:

2 "Section 4. Applicability. This act is applicable only
3 to taxable years beginning after December 31, 1980, and
4 before January 1, 1983."

5 NEW SECTION. Section 4. Applicability. Sections 1 and
6 2 apply to taxable years beginning after December 31, 1982.

7 NEW SECTION. Section 5. Effective date. This act is
8 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 331-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 19 83, there is hereby submitted a Fiscal Note for House Bill 648 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:

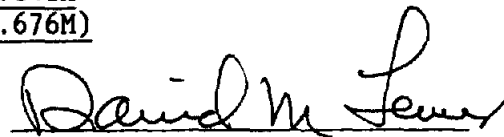
House Bill 648 allows an additional investment credit for the cost of a qualified investment that exceeds the taxpayer's depreciation; and provides an applicability date and an immediate effective date.

ASSUMPTIONS:

- 1) Individual and corporate tax revenue estimates under current law were obtained from the Office of Budget and Program Planning.
- 2) The investment credit law expired December 31, 1982 and does not revert to the prior law of 20% of federal investment credit.
- 3) An equal dollar amount of eligible assets are acquired each year but are adjusted upward by an inflation rate of 5% each year.
- 4) The 3% adjustment of the cost of the investment over total depreciation, where it would affect the taxpayers, is assumed to add an extra 10 to 15% to the cost.
- 5) Total carryback refunds for both individuals and corporations are expected to be \$3 million each year of the biennium. Carryover costs are reflected in the biennial estimates.
- 6) The cost for forms is estimated to be \$1,000 each for corporate and individual returns per year.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Individual Income Tax		
Under Current Law	\$ 166.427M	\$ 175.459M
Under Proposed Law	158.889M	267.619M
Estimated Decrease	<u>\$ (7.538M)</u>	<u>\$ (7.840M)</u>
Corporate License Tax		
Under Current Law	\$ 41.904M	\$ 48.817M
Under Proposed Law	37.379M	44.141M
Estimated Decrease	<u>\$ (4.525M)</u>	<u>\$ (4.676M)</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-83

TOTAL REVENUE

Under Current Law	\$ 208.331M	\$ 224.276M
Under Proposed Law	196.268M	211.760M
Estimated Decrease	<u>\$ (12.063M)</u>	<u>\$ (12.516M)</u>

General Fund

Under Current Law	\$ 131.347M	\$ 141.552M
Under Proposed Law	123.627M	133.542M
Estimated Decrease	<u>\$ (7.720M)</u>	<u>\$ (8.010M)</u>

School Foundation

Under Current Law	\$ 51.308M	\$ 55.294M
Under Proposed Law	48.292M	52.165M
Estimated Decrease	<u>\$ (3.016M)</u>	<u>\$ (3.129M)</u>

Sinking Fund

Under Current Law	\$ 22.575M	\$ 24.329M
Under Proposed Law	21.248M	22.952M
Estimated Decrease	<u>\$ (1.327M)</u>	<u>\$ (1.377M)</u>

Local

Under Current Law	\$ 3.101M	\$ 3.101M
Under Proposed Law	3.101M	3.101M
Estimated Decrease	<u>\$ -0-</u>	<u>\$ -0-</u>

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation, if adopted, makes permanent the investment tax credit of 15-30-162 and 15-31-123 at 20 percent of the federal credit for eligible investments plus 3 percent of the excess of an investment over a taxpayer's total depreciation.

TECHNICAL NOTE:

It is unclear whether the provision that a taxpayer may claim an additional 3 percent credit for the excess of an investment over the taxpayer's total depreciation applies singly to each investment made or to the total of investments made in any given year. If the former case applies, then the taxpayer may be required to perform one or more calculations on the tax form to account for the difference. Tax forms will have to be expanded to meet the possibility of several such calculations. If the latter case applies, then only one additional calculation will be required. However, the cost to the state will be greater than is shown in the fiscal note, which assumes the former case.

In addition, the cost of the 3 percent provision may vary according to the cycle of ACRS depreciable property. That is, the investment credit will be greater if the cost of the investment is applied primarily against first year depreciable property rather than older property under ACRS.