

HOUSE BILL NO. 739

INTRODUCED BY KEENAN, VINCENT, HARRINGTON,
DAILY, QUILICI, MENAHAN, DARKO, REAM,
KEMMIS, SCHYE, ZABROCKI, NISBET, NILSON,
BENGTSON, SPAETH, SAUNDERS, NEUMAN, WILLIAMS

IN THE HOUSE

| | |
|-------------------|---|
| February 12, 1983 | Introduced and referred to Committee on Taxation. |
| March 21, 1983 | On motion taken from Committee on Taxation, as amended, and referred to second reading. |
| March 22, 1983 | Bill printed and placed on members' desks. |
| March 23, 1983 | Second reading, do pass. |
| March 24, 1983 | Considered correctly engrossed. |
| March 25, 1983 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

| | |
|----------------|---|
| March 26, 1983 | Introduced and referred to Committee on Taxation. |
| April 12, 1983 | Committee recommend bill be concurrent in as amended. Report adopted. |
| April 14, 1983 | Second reading, concurred in. |
| April 15, 1983 | Third reading, concurred in. Ayes, 40; Noes, 7. |

IN THE HOUSE

April 15, 1983

Returned to House with amendments.

April 16, 1983

Second reading, amendments not concurred in.

On motion, Conference Committee requested and appointed.

April 20, 1983

Conference Committee reported.

Second reading, report adopted.

Third reading, report adopted.

April 21, 1983

Conference Committee report adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 239
 2 INTRODUCED BY Keenan Vincent Harrington
 3 Julius Menahan Marko Ryan Kenneth Lehn
 4 Sabrook Nielson Bengtson Smith
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN
 6 INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE
 7 CORPORATE LICENSE TAX FOR CERTAIN CORPORATIONS FOR TAXABLE
 8 YEARS BEGINNING AFTER DECEMBER 31, 1982; AMENDING SECTIONS
 9 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4,
 10 LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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. However, rehabilitation costs as set forth under
 19 section 46(a)(2)(F) of the Internal Revenue Code of 1954, or
 20 as section 46(a)(2)(F) may be renumbered or amended, are not
 21 to be included in the computation of the investment credit.
 22 The credit is allowed for the purchase and installation of
 23 certain qualified property defined by section 38 of the
 24 Internal Revenue Code of 1954, as amended, if the property
 25 meets all of the following qualifications:

1 (a) it was purchased in Montana;
 2 (b) it was placed in service in Montana; and
 3 (c) it was used for the production of Montana adjusted
 4 gross income.
 5 (2) The amount of the credit allowed for the taxable
 6 year is the sum of:
 7 (a) 30% 20% of the amount of credit determined under
 8 section 46(a)(2) of the Internal Revenue Code of 1954, as
 9 amended, or as section 46(a)(2) may be renumbered or
 10 amended;
 11 (b) the investment credit carryovers carried to the
 12 taxable year as provided in subsection (4); and
 13 (c) the investment credit carrybacks carried to the
 14 taxable year as provided for in subsection (4).
 15 (3) Notwithstanding the provisions of subsection (2),
 16 the investment credit allowed for the taxable year may not
 17 exceed the taxpayer's tax liability for the taxable year in
 18 the event the taxpayer's tax liability for the taxable year
 19 exceeds \$5,000; the investment credit may not exceed \$5,000
 20 plus 50% of the tax liability in excess of \$5,000 in the
 21 case of a husband and wife who file separate returns; the
 22 investment credit may not exceed \$2,500 plus 50% of the tax
 23 liability in excess of \$2,500 unless the spouse of the
 24 taxpayer has no qualified investment for and no unused
 25 credit carryback or carryover to the taxable year of the

INTRODUCED BILL
 -2-
 HB 739

spouse--that--ends--with--or--within--the--taxpayer's--taxable--year
\$500.

(4) 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--(3)--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 property for which an
investment credit is claimed is used both inside and outside
this state only a portion of the credit is allowed. The
credit must be apportioned according to a fraction the
numerator of which is the number of days during the taxable
year the property was located in Montana and the denominator
of which is the number of days during the taxable year the
taxpayer owned the property. The investment credit may be
applied only to the tax liability of the taxpayer who
purchases and places in service the property for which an
investment credit is claimed. The credit may not be
allocated between spouses unless the property is used by a
partnership or small business corporation of which they are
partners or shareholders.

(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 does not have:

(a) more than 10 shareholders;

(b) a person who is not an individual (other than an
estate or other than a trust described in 15-31-207) as a
shareholder;

(c) a nonresident alien as a shareholder; and

(d) more than one class of stock.

(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. However, rehabilitation costs as set forth under
section 46(a)(2)(F) of the Internal Revenue Code of 1954, or
as section 46(a)(2)(F) may be renumbered or amended, are not
to be included in the computation of the investment credit.

The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was purchased in Montana;

(b) it was placed in service in Montana; and

(c) it was used for the production of Montana income.

(4) 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 (6); and

(c) 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 property for which an investment credit is claimed is used both inside and outside this state, only a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which is the number of days during the taxable year the property was located in Montana and the denominator of which is the number of days during the taxable year the taxpayer owned the property. The investment credit may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which an investment credit is claimed.

(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 amended to read:

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

NEW SECTION. Section 4. Applicability. Sections 1 and

1 2 are applicable to taxable years beginning after December
2 31, 1982.

3 **NEW SECTION.** Section 5. Effective date. This act is
4 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 409-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 19 83, there is hereby submitted a Fiscal Note for House Bill 739 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:

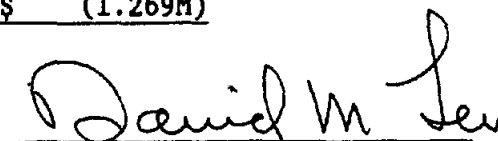
House Bill 739 establishes an investment credit against the individual income tax and the corporate license tax for certain corporations for taxable years beginning after December 31, 1982; and provides an immediate effective date.

ASSUMPTIONS:

- 1) 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 prior law which allowed 20% of the federal investment credit plus any carryback or carryover.
- 3) The tax credit is limited to the taxpayer's tax liability for the taxable year or \$500, whichever is less.
- 4) An equal dollar amount of eligible assets are acquired each year; a 5% inflation rate for asset acquisition is assumed.
- 5) Outstanding carryover is assumed to be \$1.1 million for individuals and \$.7 million for corporations. Half of the total carryover was allocated to each year of the biennium.

FISCAL IMPACT:

| | <u>FY 84</u> | <u>FY 85</u> |
|-------------------------------------|--------------|--------------|
| Individual Income Tax Collections | | |
| Under Current Law | \$ 166.427M | \$ 175.459M |
| Under Proposed Law | 161.428M | 170.238M |
| Estimated Decrease | \$ (4.999M) | \$ (5.221M) |
| Corporation License Tax Collections | | |
| Under Current Law | \$ 41.904M | \$ 48.817M |
| Under Proposed Law | 40.679M | 47.548M |
| Estimated Decrease | \$ (1.225M) | \$ (1.269M) |

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

| | <u>FY 84</u> | <u>FY 85</u> |
|--------------------|--------------------|--------------------|
| TOTAL REVENUE | | |
| Under Current Law | \$ 208.331M | \$ 224.276M |
| Under Proposed Law | 202.107M | 217.786M |
| Estimated Decrease | <u>\$ (6.224M)</u> | <u>\$ (6.490M)</u> |
| General Fund | | |
| Under Current Law | \$ 131.347M | \$ 141.553M |
| Under Proposed Law | 127.364M | 137.399M |
| Estimated Decrease | <u>\$ (3.983M)</u> | <u>\$ (4.154M)</u> |
| School Foundation | | |
| Under Current Law | \$ 51.308M | \$ 55.294M |
| Under Proposed Law | 49.752M | 53.672M |
| Estimated Decrease | <u>\$ (1.556M)</u> | <u>\$ (1.622M)</u> |
| Sinking Fund | | |
| Under Current Law | \$ 22.575M | \$ 24.328M |
| Under Proposed Law | 21.890M | 23.614M |
| Estimated Decrease | <u>\$ (.685M)</u> | <u>\$ (.714M)</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 OR PROPOSED LEGISLATION:

The relative cost to the state of Montana of the investment tax credit is dependent on economic conditions which affects the rate of growth of total income and presumably the rate of asset acquisition.

FISCAL NOTE 14:U/2

HB 739

STATE OF MONTANA

REQUEST NO. 533-83

FISCAL NOTE

Form BD-15

In compliance with a written request received April 11, 19 83, there is hereby submitted a Fiscal Note for House Bill 739, Amended, 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 OF PROPOSED LEGISLATION:

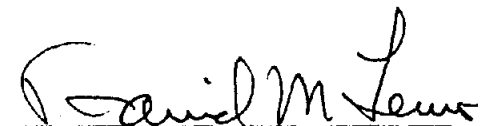
House Bill 739, Amended, establishes an investment credit against the individual income tax and the corporate license tax for certain corporations for taxable years beginning after December 31, 1982; and provides an immediate effective date.

ASSUMPTIONS:

- 1) Revenue estimates under current law were obtained from the Office of Budget and Program Planning.
- 2) The investment credit reverts to prior law (20% of federal credit) if no action is taken. Current law estimates do not account for the reversion.
- 3) Asset acquisition is constant over the biennium; a 5% inflation rate is assumed.
- 4) Outstanding carryover is assumed to be \$1.1 million for individuals and \$.7 million for corporations. Half of the total carryover (\$1.8M) is allocated to each year of the biennium.

FISCAL IMPACT:

| | <u>FY84</u> | <u>FY85</u> |
|-----------------------------------|-----------------|-----------------|
| Individual Tax Collections | | |
| Under Current Law | \$ 166.427M | \$ 175.459M |
| Under Proposed Law | 164.253M | 173.204M |
| Estimated Decrease | <u>(2.174M)</u> | <u>(2.255M)</u> |
| Corporate License Tax Collections | | |
| Under Current Law | 41.904M | 48.817M |
| Under Proposed Law | 41.127M | 48.019M |
| Estimated Decrease | <u>(.777M)</u> | <u>(.798M)</u> |
| TOTAL REVENUE | | |
| Under Current Law | 208.331M | 224.276M |
| Under Proposed Law | 205.380M | 221.223M |
| Estimated Decrease | <u>(2.951M)</u> | <u>(3.053M)</u> |

(Continued)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-13-83

| | | |
|--------------------|--------------------|--------------------|
| General Fund | FY 84 | FY 85 |
| Under Current Law | \$ 131.347M | \$ 141.552M |
| Under Proposed Law | 129.459M | 139.598M |
| Estimated Decrease | <u>\$ (1.888M)</u> | <u>\$ (1.954M)</u> |
| School Foundation | | |
| Under Current Law | 51.308M | 55.294M |
| Under Proposed Law | 50.570M | 54.531M |
| Estimated Decrease | <u>(.738M)</u> | <u>(.763M)</u> |
| Sinking Fund | | |
| Under Current Law | 22.575M | 24.329M |
| Under Proposed Law | 22.251M | 23.993M |
| Estimated Decrease | <u>(.324M)</u> | <u>(.336M)</u> |
| Local | | |
| Under Current Law | 3.101M | 3.101M |
| Under Proposed Law | 3.101M | 3.101M |
| Estimated Decrease | <u>--</u> | <u>--</u> |

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The following table illustrates the fiscal impact of the amendment to House Bill 739 which allows 20% of the federal credit for FY 86 and FY 87.

| | | | |
|-------------------|---------------|---------------|---------------|
| | FY 84 | FY 85 | Total |
| Individual Claims | \$ 5.552 | \$ 5.830 | |
| Carryover | -- | .666 | |
| Carryback Refunds | 1.000 | 1.000 | |
| Total | <u>6.552</u> | <u>7.496</u> | <u>14.048</u> |
| Corporate Claims | 2.731 | 2.867 | |
| Carryover | -- | .642 | |
| Carryback Refunds | 1.500 | 1.500 | |
| Total | <u>4.231</u> | <u>5.009</u> | <u>9.240</u> |
| TOTAL | <u>10.783</u> | <u>12.505</u> | <u>23.288</u> |

The above estimates were derived by assuming all pre-1983 carryover is used by FY 86, a constant rate of asset acquisition (adjusted for inflation), and no change in the federal law. These estimates should be viewed cautiously given the above assumptions and pre-1982 data. The total for the biennium may represent a lower bound since no real rate of growth in asset acquisition is considered. If a national economic recovery occurs the impact in FY 86 and FY 87 could be substantially greater. In addition, the trend at the federal level has been to expand the coverage of the investment tax credit program. Continuation of this trend could also increase the impact of this bill.

Approved by committee
on Taxation

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KEMMIS, SCHYE, ZABROCKI, NISBET, NILSON,

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE TAX FOR CERTAIN CORPORATIONS FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982; AMENDING SECTIONS 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4, LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"15-30-162. Investment credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 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. ~~However, rehabilitation costs as set forth under section 46 of the Internal Revenue Code of 1954, or as section 46 may be renumbered or amended, are not to be included in the computation of the investment credit.~~ The credit is allowed for the purchase and installation of

~~certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:~~

~~(a) it was purchased in Montana;~~

~~(b) it was placed in service in Montana; and~~

~~(c) it was used for the production of Montana adjusted gross income.~~

(2) 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) 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 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax

1 ~~liability in excess of \$2,500 unless the spouse of the~~
 2 ~~taxpayer has no qualified investment for and no unused~~
 3 ~~credit carryback or carryover to the taxable year of the~~
 4 ~~spouse that ends with or within the taxpayer's taxable year~~
 5 THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR OR \$500,
 6 WHICHEVER IS LESS.

7 (4) ~~If any part of the investment credit is not~~
 8 ~~applied against the tax liability for the taxable year~~
 9 ~~because of the limitations imposed under subsection (3), the~~
 10 ~~unused portion shall be carried back and carried forward in~~
 11 ~~accordance with the provisions of section 46(b) of the~~
 12 ~~Internal Revenue Code of 1954, as amended, or as section~~
 13 ~~46(b) may be renumbered or amended~~ property for which an
 14 investment credit is claimed is used both inside and outside
 15 this state, only a portion of the credit is allowed. The
 16 credit must be apportioned according to a fraction the
 17 numerator of which is the number of days during the taxable
 18 year the property was located in Montana and the denominator
 19 of which is the number of days during the taxable year the
 20 taxpayer owned the property. The investment credit may be
 21 applied only to the tax liability of the taxpayer who
 22 purchases and places in service the property for which an
 23 investment credit is claimed. The credit may not be
 24 allocated between spouses unless the property is used by a
 25 partnership or small business corporation of which they are

1 partners or shareholders.

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

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

7 "15-31-123. Investment credit. (1) The purpose of this
 8 section is to allow small businesses to take an investment
 9 credit as provided for in subsection (3) and to stimulate
 10 capital investment by the small business sector.

11 (2) For the purposes of this section, "small business"
 12 means a business that ~~is eligible to elect to be taxed under~~
 13 ~~the provisions of 15-31-202, whether or not such election is~~
 14 ~~made does not have:~~

15 (a) more than 10 shareholders;

16 (b) a person who is not an individual (other than an
 17 estate or other than a trust described in 15-31-207) as a
 18 shareholder;

19 (c) a nonresident alien as a shareholder; and

20 (d) more than one class of stock.

21 (3) There is allowed as a credit against the taxes
 22 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 23 of the credit allowed with respect to certain depreciable
 24 property under section 38 of the Internal Revenue Code of
 25 1954, as amended, or as section 38 may be renumbered or

amended. ~~However, rehabilitation costs as set forth under section 46(f)(2)(F) of the Internal Revenue Code of 1954, or as section 46(f)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit.~~ The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was purchased in Montana;

(b) it was placed in service in Montana; and

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

(c) 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 \$500.

(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 property for which an investment credit is claimed is used both inside and outside this state, only a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which is the number of days during the taxable year the property was located in Montana and the denominator of which is the number of days during the taxable year the taxpayer owned the property. The investment credit may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which an investment credit is claimed.

(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 amended to read:

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

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

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

-End-

Rereferred and
Approved by committee
on Taxation

HOUSE BILL NO. 739

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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; in the
case of a husband and wife who file separate returns, the
investment credit may not exceed \$2,500 plus 50% of the tax

1 ~~liability in excess of \$2,500 unless the spouse of the~~
 2 ~~taxpayer has no qualified investment for and no unused~~
 3 ~~credit carryback or carryover to the taxable year of the~~
 4 ~~spouse that ends with or within the taxpayer's taxable year~~
 5 THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR OR \$500,
 6 WHICHEVER IS LESS.

7 (4) ~~If any part of the investment credit is not~~
 8 ~~applied against the tax liability for the taxable year~~
 9 ~~because of the limitations imposed under subsection (3), the~~
 10 ~~unused portion shall be carried back and carried forward in~~
 11 ~~accordance with the provisions of section 46(b) of the~~
 12 ~~Internal Revenue Code of 1954, as amended, or as section~~
 13 ~~46(b) may be renumbered or amended~~ property for which an
 14 investment credit is claimed is used both inside and outside
 15 this state; only a portion of the credit is allowed. The
 16 credit must be apportioned according to a fraction the
 17 numerator of which is the number of days during the taxable
 18 year the property was located in Montana and the denominator
 19 of which is the number of days during the taxable year the
 20 taxpayer owned the property. The investment credit may be
 21 applied only to the tax liability of the taxpayer who
 22 purchases and places in service the property for which an
 23 investment credit is claimed. The credit may not be
 24 allocated between spouses unless the property is used by a
 25 partnership or small business corporation of which they are

1 partners or shareholders.

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

6 Section 2. Section 15-31-123, MCA, is amended to read:
 7 "15-31-123. Investment credit. (1) The purpose of this
 8 section is to allow small businesses to take an investment
 9 credit as provided for in subsection (3) and to stimulate
 10 capital investment by the small business sector.

11 (2) For the purposes of this section, "small business"
 12 means a business that is eligible to elect to be taxed under
 13 the provisions of 15-31-202, whether or not such election is
 14 made; does not have:

15 (a) more than 10 shareholders;

16 (b) a person who is not an individual (other than an
 17 estate or other than a trust described in 15-31-207) as a
 18 shareholder;

19 (c) a nonresident alien as a shareholder; and

20 (d) more than one class of stock;

21 (3) There is allowed as a credit against the taxes
 22 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 23 of the credit allowed with respect to certain depreciable
 24 property under section 38 of the Internal Revenue Code of
 25 1954, as amended, or as section 38 may be renumbered or

amended. ~~However, rehabilitation costs as set forth under section 46(f)(2)(F) of the Internal Revenue Code of 1954, or as section 46(f)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit.~~ The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was purchased in Montana;

(b) it was placed in service in Montana; and

(c) it was used for the production of Montana income.

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

(c) 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 \$500.

(5) 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 property for which an investment credit is claimed is used both inside and outside this state, only a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which is the number of days during the taxable year the property was located in Montana and the denominator of which is the number of days during the taxable year the taxpayer owned the property. The investment credit may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which an investment credit is claimed.

(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 amended to read:

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

4 ~~NEW_SECTION.~~ Section 4. Applicability. Sections 1 and
5 2 are applicable to taxable years beginning after December
6 31, 1982.

7 ~~NEW_SECTION.~~ Section 5. Effective date. This act is
8 effective on passage and approval.

-End-

HOUSE BILL NO. 739

INTRODUCED BY KEENAN, VINCENT, HARRINGTON,

DAILY, QUILICI, MENAHAN, OARKO, REAM,

KEMMIS, SCHYE, ZABROCKI, NISBET, NILSON,

BENGTSON, SPAETH, SAUNDERS, NEUMAN, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE TAX FOR CERTAIN CORPORATIONS FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982; AMENDING SECTIONS 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4, LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"15-30-162. Investment credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 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. ~~However, rehabilitation costs as set forth under section 46 of the Internal Revenue Code of 1954, or as section 46 may be renumbered or amended, are not to be included in the computation of the investment credit.~~ The credit is allowed for the purchase and installation of

certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was purchased in Montana;

(b) it was placed in service in Montana; and

(c) it was used for the production of Montana adjusted gross income.

(2) 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) 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 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax

1 liability in excess of \$2,500 unless the spouse of the
 2 taxpayer has no qualified investment for and no unused
 3 credit carryback or carryover to the taxable year of the
 4 spouse that ends with or within the taxpayer's taxable year
 5 THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR OR \$500,
 6 WHICHEVER IS LESS.

7 (4) If any part of the investment credit is not
 8 appted against the tax liability for the taxable year
 9 because of the limitations imposed under subsection (3), the
 10 unused portion shall be carried back and carried forward in
 11 accordance with the provisions of section 46(b) of the
 12 Internal Revenue Code of 1954, as amended, or as section
 13 46(b) may be renumbered or amended property for which an
 14 investment credit is claimed is used both inside and outside
 15 this state; only a portion of the credit is allowed. The
 16 credit must be apportioned according to a fraction the
 17 numerator of which is the number of days during the taxable
 18 year the property was located in Montana and the denominator
 19 of which is the number of days during the taxable year the
 20 taxpayer owned the property. The investment credit may be
 21 applied only to the tax liability of the taxpayer who
 22 purchases and places in service the property for which an
 23 investment credit is claimed. The credit may not be
 24 allocated between spouses unless the property is used by a
 25 partnership or small business corporation of which they are

1 partners or shareholders.

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

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

7 "15-31-123. Investment credit. (1) The purpose of this
 8 section is to allow small businesses to take an investment
 9 credit as provided for in subsection (3) and to stimulate
 10 capital investment by the small business sector.

11 (2) For the purposes of this section, "small business"
 12 means a business that is eligible to elect to be taxed under
 13 the provisions of 15-31-202, whether or not such election is
 14 made; does not have:

15 (a) more than 10 shareholders;

16 (b) a person who is not an individual (other than an
 17 estate or other than a trust described in 15-31-207) as a
 18 shareholder;

19 (c) a nonresident alien as a shareholder; and

20 (d) more than one class of stock.

21 (3) There is allowed as a credit against the taxes
 22 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 23 of the credit allowed with respect to certain depreciable
 24 property under section 38 of the Internal Revenue Code of
 25 1954, as amended, or as section 38 may be renumbered or

1 amended. ~~However, rehabilitation costs as set forth under~~
 2 ~~section 46(f)(2) of the Internal Revenue Code of 1954, or~~
 3 ~~as section 46(f)(2) may be renumbered or amended, are not~~
 4 ~~to be included in the computation of the investment credit.~~
 5 The credit is allowed for the purchase and installation of
 6 certain qualified property defined by section 38 of the
 7 Internal Revenue Code of 1954, as amended, if the property
 8 meets all of the following qualifications:

- 9 (a) it was purchased in Montana;
- 10 (b) it was placed in service in Montana; and
- 11 (c) it was used for the production of Montana income.
- 12 (4) The amount of the credit allowed for the taxable
- 13 year is the sum of:
- 14 (a) 30% 20% of the amount of credit determined under
- 15 section 46(a)(2) of the Internal Revenue Code of 1954, as
- 16 amended, or as section 46(a)(2) may be renumbered or
- 17 amended;
- 18 (b) the investment credit carryovers carried to the
- 19 taxable year as provided in subsection (6) and
- 20 (c) the investment credit carrybacks carried to the
- 21 taxable year as provided for in subsection (6).

22 (5) Notwithstanding the provisions of subsection (4),
 23 the investment credit allowed for the taxable year may not
 24 exceed the taxpayer's tax liability for the taxable year in
 25 the event the taxpayer's tax liability for the taxable year

1 exceeds \$5,000, the investment credit may not exceed \$5,000
 2 plus 50% of the tax liability in excess of \$5,000 \$100.

3 (5) If any part of the investment credit is not
 4 applied against the tax liability for the taxable year
 5 because of the limitations imposed under subsection (5), the
 6 unused portion shall be carried back and carried forward in
 7 accordance with the provisions of section 46(b) of the
 8 Internal Revenue Code of 1954, as amended, or as section
 9 46(b) may be renumbered or amended property for which an
 10 investment credit is claimed is used both inside and outside
 11 this state, only a portion of the credit is allowed. The
 12 credit must be apportioned according to a fraction the
 13 numerator of which is the number of days during the taxable
 14 year the property was located in Montana and the denominator
 15 of which is the number of days during the taxable year the
 16 taxpayer owned the property. The investment credit may be
 17 applied only to the tax liability of the taxpayer who
 18 purchases and places in service the property for which an
 19 investment credit is claimed.

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

24 Section 3. Chapter 520, section 4, Laws of 1981, is
 25 amended to read:

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

4 NEW_SECTION. Section 4. Applicability. Sections 1 and
5 2 are applicable to taxable years beginning after December
6 31, 1982.

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

-End-

April 12, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 739 be amended as follows:

1. Page 1, line 25.

Following: line 24

Insert: "However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit."

2. Page 2, line 4.

Following: line 3

Strike: line 4

Renumber: subsequent subsection

3. Page 2, line 10.

Following: "~~4a~~ 30%"

Strike: "20%"

Insert: "5%"

4. Page 5, line 5.

Following: line 4

Insert: "However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit."

5. Page 5, line 9.

Following: line 8

Strike: line 9

Renumber: subsequent subsection

6. Page 5, line 14.

Following: "~~4a~~ 30%"

Strike: "20%"

Insert: "5%"

7. Page 6, line 24.

Following: line 23

Insert: "Section 3. Section 15-30-162, MCA, is amended to read:

"15-30-162. Investment credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 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.

(2) 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;

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April 12, 1983

Page -2-

(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 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax liability in excess of \$2,500 unless the spouse of the taxpayer has no qualified investment for and no unused credit carryback or carryover to the taxable year of the spouse that ends with or within the taxpayer's taxable year.

(4) 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 (3), 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.

(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. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was placed in service in Montana; and

(b) it was used for the production of Montana income.

Section 4. 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, does not have:~~

(a) more than 10 shareholders;
(b) a person who is not an individual (other than an estate or other than a trust described in 15-31-207) as a shareholder;

(c) a nonresident alien as a shareholder; and
(d) more than one class of stock.

(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. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(a) it was placed in service in Montana; and
(b) it was used for the production of Montana income."
(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) the investment credit carryovers carried to the taxable year as provided in subsection (6); and
(c) 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."

Renumber: subsequent sections

8. Page 7, line 4.
Following: "Applicability."
Insert: "(1)"

9. Page 7, line 6.
Following: "1982"
Insert: "and before January 1, 1985. Sections 3 and 4 are applicable to taxable years beginning after December 31, 1984.
(2) The carryover of credits earned under 15-30-162 or 15-31-123 prior to January 1, 1983 are not affected by this act."

HOUSE BILL NO. 739

INTRODUCED BY KEENAN, VINCENT, HARRINGTON,
OATLY, QUILICI, MENAHAN, DARKO, REAM,
KEMMIS, SCHYE, ZABROCKI, NISBET, NILSON,
BENGTSON, SPAETH, SAUNDERS, NEUMAN, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN
INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE
CORPORATE LICENSE TAX FOR CERTAIN CORPORATIONS FOR TAXABLE
YEARS BEGINNING AFTER DECEMBER 31, 1982; AMENDING SECTIONS
15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4,
LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"15-30-162. Investment credit. (1) There is allowed as
a credit against the tax imposed by 15-30-103 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. ~~However, rehabilitation costs as set forth under~~
~~section 46(a)(2)(F) of the Internal Revenue Code of 1954, or~~
~~as section 46(a)(2)(F) may be renumbered or amended, are not~~
~~to be included in the computation of the investment credit.~~
HOWEVER, REHABILITATION COSTS AS SET FORTH UNDER SECTION

46(a)(2)(F) OF THE INTERNAL REVENUE CODE OF 1954, OR AS
SECTION 46(a)(2)(F) MAY BE RENUMBERED OR AMENDED, ARE NOT TO
BE INCLUDED IN THE COMPUTATION OF THE INVESTMENT CREDIT. The
credit is allowed for the purchase and installation of
certain qualified property defined by section 38 of the
Internal Revenue Code of 1954, as amended, if the property
meets all of the following qualifications:

~~(a) it was purchased in Montana;~~

~~(b)(1) it was placed in service in Montana; and~~

~~(b)(2) it was used for the production of Montana~~
adjusted gross income.

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

~~(a) 30% 22 1/2%~~ 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

1 exceeds--\$5,000--the--investment--credit--may--not--exceed--\$5,000
 2 plus--50%--of--the--tax--liability--in--excess--of--\$5,000--in--the
 3 case--of--a--husband--and--wife--who--file--separate--returns--the
 4 investment--credit--may--not--exceed--\$2,500--plus--50%--of--the--tax
 5 liability--in--excess--of--\$2,500--unless--the--spouse--of--the
 6 taxpayer--has--no--qualified--investment--for--and--no--unused
 7 credit--carryback--or--carryover--to--the--taxable--year--of--the
 8 spouse--that--ends--with--or--within--the--taxpayer's--taxable--year
 9 THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR OR \$500,
 10 WHICHEVER IS LESS.

11 (4) If any--part--of--the--investment--credit--is--not
 12 applied--against--the--tax--liability--for--the--taxable--year
 13 because--of--the--limitations--imposed--under--subsection--(3)--the
 14 unused--portion--shall--be--carried--back--and--carried--forward--in
 15 accordance--with--the--provisions--of--section--46(b)--of--the
 16 Internal--Revenue--Code--of--1954--as--amended--or--as--section
 17 46(b)--may--be--renumbered--or--omended property for which an
 18 investment credit is claimed is used both inside and outside
 19 this state; only a portion of the credit is allowed. The
 20 credit must be apportioned according to a fraction the
 21 numerator of which is the number of days during the taxable
 22 year the property was located in Montana and the denominator
 23 of which is the number of days during the taxable year the
 24 taxpayer owned the property. The investment credit may be
 25 applied only to the tax liability of the taxpayer who

1 purchases and places in service the property for which an
 2 investment credit is claimed. The credit may not be
 3 allocated between spouses unless the property is used by a
 4 partnership or small business corporation of which they are
 5 partners or shareholders.

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

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

11 "15-31-123. Investment credit. (1) The purpose of this
 12 section is to allow small businesses to take an investment
 13 credit as provided for in subsection (3) and to stimulate
 14 capital investment by the small business sector.

15 (2) For the purposes of this section, "small business"
 16 means a business that is eligible to elect to be taxed under
 17 the provisions of 15-31-202, whether or not such election is
 18 made; does not have:

19 (a) more than 10 shareholders;

20 (b) a person who is not an individual (other than an
 21 estate or other than a trust described in 15-31-201) as a
 22 shareholder;

23 (c) a nonresident alien as a shareholder; and

24 (d) more than one class of stock.

25 (3) There is allowed as a credit against the taxes

1 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 2 of the credit allowed with respect to certain depreciable
 3 property under section 38 of the Internal Revenue Code of
 4 1954, as amended, or as section 38 may be renumbered or
 5 amended. ~~However, rehabilitation costs as set forth under~~
 6 ~~section 46(f)(1)(F) of the Internal Revenue Code of 1954 or~~
 7 ~~as section 46(f)(1)(F) may be renumbered or amended, are not~~
 8 ~~to be included in the computation of the investment credit.~~
 9 HOWEVER, REHABILITATION COSTS AS SET FORTH UNDER SECTION
 10 46(f)(1)(F) OF THE INTERNAL REVENUE CODE OF 1954, OR AS
 11 SECTION 46(f)(1)(F) MAY BE RENUMBERED OR AMENDED, ARE NOT TO
 12 BE INCLUDED IN THE COMPUTATION OF THE INVESTMENT CREDIT. The
 13 credit is allowed for the purchase and installation of
 14 certain qualified property defined by section 38 of the
 15 Internal Revenue Code of 1954, as amended, if the property
 16 meets all of the following qualifications:

17 ~~(a) it was purchased in Montana;~~
 18 ~~(b) it was placed in service in Montana; and~~
 19 ~~(c) it was used for the production of Montana~~
 20 ~~income.~~

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

23 (a) 30% 20% 5% of the amount of credit determined
 24 under section 46(a)(2) of the Internal Revenue Code of 1954,
 25 as amended, or as section 46(a)(2) may be renumbered or

1 amended;

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

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

6 (5) Notwithstanding the provisions of subsection (4),
 7 the investment credit allowed for the taxable year may not
 8 exceed the taxpayer's tax liability for the taxable year. In
 9 the event the taxpayer's tax liability for the taxable year
 10 exceeds \$5,000, the investment credit may not exceed \$5,000
 11 plus 50% of the tax liability in excess of \$5,000 \$500.

12 (6) If any part of the investment credit is not
 13 applied against the tax liability for the taxable year
 14 because of the limitations imposed under subsection (5), the
 15 unused portion shall be carried back and carried forward in
 16 accordance with the provisions of section 46(b) of the
 17 Internal Revenue Code of 1954, as amended, or as section
 18 46(b) may be renumbered or amended property for which an
 19 investment credit is claimed is used both inside and outside
 20 this state; only a portion of the credit is allowed. The
 21 credit must be apportioned according to a fraction the
 22 numerator of which is the number of days during the taxable
 23 year the property was located in Montana and the denominator
 24 of which is the number of days during the taxable year the
 25 taxpayer owned the property. The investment credit may be

1 ~~applied only to the tax liability of the taxpayer who~~
 2 ~~purchases and places in service the property for which an~~
 3 ~~investment credit is claimed.~~

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

8 ~~SECTION 3. SECTION 15-30-162, MCA, IS AMENDED TO READ:~~

9 "15-30-162. Investment credit. (1) There is allowed as
 10 a credit against the tax imposed by 15-30-103 a percentage
 11 of the credit allowed with respect to certain depreciable
 12 property under section 38 of the Internal Revenue Code of
 13 1954, as amended, or as section 38 may be renumbered or
 14 amended.

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

17 (a) ~~30%~~ 20% of the amount of credit determined under
 18 section 46(a)(2) of the Internal Revenue Code of 1954, as
 19 amended, or as section 46(a)(2) may be renumbered or
 20 amended;

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

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

25 (3) Notwithstanding the provisions of subsection (2),

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

12 (4) If any part of the investment credit is not
 13 applied against the tax liability for the taxable year
 14 because of the limitations imposed under subsection (3), the
 15 unused portion shall be carried back and carried forward in
 16 accordance with the provisions of section 46(b) of the
 17 Internal Revenue Code of 1954, as amended, or as section
 18 46(b) may be renumbered or amended.

19 (5) The investment credit allowed by this section is
 20 subject to recapture as provided for in section 47 of the
 21 Internal Revenue Code of 1954, as amended, or as section 47
 22 may be renumbered or amended. ~~However, rehabilitation costs~~
 23 ~~as set forth under section 46(a)(2)(F) of the Internal~~
 24 ~~revenue Code of 1954, or as section 46(a)(2)(F) may be~~
 25 ~~renumbered or amended, are not to be included in the~~

computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

- (a) it was placed in service in Montana; and
- (b) it was used for the production of Montana income."

SECTION 4. 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 or does not have:

- (a) more than 10 shareholders;
- (b) a person who is not an individual (other than an estate or other than a trust described in 15-31-207) as a shareholder;
- (c) a nonresident alien as a shareholder; and
- (d) more than one class of stock.

(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. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

- (a) It was placed in service in Montana; and
 - (b) it was used for the production of Montana income.
- (4) The amount of the credit allowed for the taxable year is the sum of:

(a) 90% 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 (6); and

(c) 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

1 the event the taxpayer's tax liability for the taxable year
2 exceeds \$5,000, the investment credit may not exceed \$5,000
3 plus 50% of the tax liability in excess of \$5,000.

4 (6) If any part of the investment credit is not
5 applied against the tax liability for the taxable year
6 because of the limitations imposed under subsection (5), the
7 unused portion shall be carried back and carried forward in
8 accordance with the provisions of section 46(b) of the
9 Internal Revenue Code of 1954, as amended, or as section
10 46(b) may be renumbered or amended.

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

15 Section 5. Chapter 520, section 4, Laws of 1981, is
16 amended to read:

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

20 ~~NEW SECTION. Section 6. Applicability. (1) Sections 1~~
21 ~~and 2 are applicable to taxable years beginning after~~
22 ~~December 31, 1982 AND BEFORE JANUARY 1, 1983. SECTIONS 3 AND~~
23 ~~4 ARE APPLICABLE TO TAXABLE YEARS BEGINNING AFTER DECEMBER~~
24 ~~31, 1984.~~

25 ~~(2) THE CARRY OVER OF CREDITS EARNED UNDER 15-30-162~~

1 ~~OR 15-31-123 PRIOR TO JANUARY 1, 1983 ARE NOT AFFECTED BY~~
2 ~~THIS ACT.~~

3 ~~NEW SECTION. Section 7. Effective date. This act is~~
4 ~~effective on passage and approval.~~

-End-

HOUSE BILL NO. 739

INTRODUCED BY KEENAN, VINCENT, HARRINGTON,

DAILY, QUILICI, MENAHAN, DARKO, REAM,

KEMMIS, SCHYE, ZABROCKI, NISBET, NILSON,

BENGTSON, SPAETH, SAUNDERS, NEUMAN, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE TAX FOR CERTAIN CORPORATIONS FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982; AMENDING SECTIONS 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4, LAWS OF 1981; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"15-30-162. Investment credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 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. ~~However, rehabilitation costs as set forth under section 46(f)(1)(F) of the Internal Revenue Code of 1954, or as section 46(f)(1)(F) may be renumbered or amended, are not to be included in the computation of the investment credit.~~ HOWEVER, REHABILITATION COSTS AS SET FORTH UNDER SECTION

~~46(f)(1)(F) OF THE INTERNAL REVENUE CODE OF 1954, OR AS SECTION 46(f)(1)(F) MAY BE RENUMBERED OR AMENDED, ARE NOT TO BE INCLUDED IN THE COMPUTATION OF THE INVESTMENT CREDIT. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:~~

~~(a) it was purchased in Montana;~~~~(a)(i) it was placed in service in Montana; and~~~~(a)(ii) it was used for the production of Montana adjusted gross income.~~

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

(a) 30% ~~20%~~ 5% 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

1 exceeds \$5,000, the investment credit may not exceed \$5,000
 2 plus 50% of the tax liability in excess of \$5,000. In the
 3 case of a husband and wife who file separate returns, the
 4 investment credit may not exceed \$2,500 plus 50% of the tax
 5 liability in excess of \$2,500 unless the spouse of the
 6 taxpayer has no qualified investment for and no unused
 7 credit carryback or carryover to the taxable year of the
 8 spouse that ends with or within the taxpayer's taxable year
 9 THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR OR 1900,
 10 WHICHEVER IS LESS.

11 (4) If any part of the investment credit is not
 12 applied against the tax liability for the taxable year
 13 because of the limitations imposed under subsection (3), the
 14 unused portion shall be carried back and carried forward in
 15 accordance with the provisions of section 46(b) of the
 16 Internal Revenue Code of 1954, as amended, or as section
 17 46(b) may be renumbered or amended property for which an
 18 investment credit is claimed is used both inside and outside
 19 this state, only a portion of the credit is allowed. The
 20 credit must be apportioned according to a fraction the
 21 numerator of which is the number of days during the taxable
 22 year the property was located in Montana and the denominator
 23 of which is the number of days during the taxable year the
 24 taxpayer owned the property. The investment credit may be
 25 applied only to the tax liability of the taxpayer who

1 purchases and places in service the property for which an
 2 investment credit is claimed. The credit may not be
 3 allocated between spouses unless the property is used by a
 4 partnership or small business corporation of which they are
 5 partners or shareholders.

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

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

11 "15-31-123. Investment credit. (1) The purpose of this
 12 section is to allow small businesses to take an investment
 13 credit as provided for in subsection (3) and to stimulate
 14 capital investment by the small business sector.

15 (2) For the purposes of this section, "small business"
 16 means a business that is eligible to elect to be taxed under
 17 the provisions of 15-31-202, whether or not such election is
 18 made, does not have:

19 (a) more than 10 shareholders;
 20 (b) a person who is not an individual (other than an
 21 estate or other than a trust described in 15-31-207) as a
 22 shareholder;

23 (c) a nonresident alien as a shareholder; and

24 (d) more than one class of stock.

25 (3) There is allowed as a credit against the taxes

1 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 2 of the credit allowed with respect to certain depreciable
 3 property under section 38 of the Internal Revenue Code of
 4 1954, as amended, or as section 38 may be renumbered or
 5 amended. ~~However, rehabilitation costs as set forth under~~
 6 ~~section 46(a)(2)(F) of the Internal Revenue Code of 1954, or~~
 7 ~~as section 46(a)(2)(F) may be renumbered or amended, are not~~
 8 ~~to be included in the computation of the investment credit.~~
 9 HOWEVER, REHABILITATION COSTS AS SET FORTH UNDER SECTION
 10 46(A)(2)(F) OF THE INTERNAL REVENUE CODE OF 1954, OR AS
 11 SECTION 46(A)(2)(F) MAY BE RENUMBERED OR AMENDED, ARE NOT TO
 12 BE INCLUDED IN THE COMPUTATION OF THE INVESTMENT CREDIT. The
 13 credit is allowed for the purchase and installation of
 14 certain qualified property defined by section 38 of the
 15 Internal Revenue Code of 1954, as amended, if the property
 16 meets all of the following qualifications:

17 ~~that it was purchased in Montana;~~
 18 ~~that (A) it was placed in service in Montana; and~~
 19 ~~that (B) it was used for the production of Montana~~
 20 ~~income.~~

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

23 ~~(a) 30% 20% 5% of the amount of credit determined~~
 24 ~~under section 46(a)(2) of the Internal Revenue Code of 1954,~~
 25 ~~as amended, or as section 46(a)(2) may be renumbered or~~

1 amended;

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

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

6 (5) Notwithstanding the provisions of subsection (4),
 7 the investment credit allowed for the taxable year may not
 8 exceed the taxpayer's tax liability for the taxable year in
 9 the event the taxpayer's tax liability for the taxable year
 10 exceeds \$5,000; the investment credit may not exceed \$5,000
 11 plus 50% of the tax liability in excess of \$5,000 \$500.

12 (6) If any part of the investment credit is not
 13 applied against the tax liability for the taxable year
 14 because of the limitations imposed under subsection (5), the
 15 unused portion shall be carried back and carried forward in
 16 accordance with the provisions of section 46(b) of the
 17 Internal Revenue Code of 1954, as amended, or as section
 18 46(b) may be renumbered or amended property for which an
 19 investment credit is claimed is used both inside and outside
 20 this state, only a portion of the credit is allowed. The
 21 credit must be apportioned according to a fraction, the
 22 numerator of which is the number of days during the taxable
 23 year the property was located in Montana and the denominator
 24 of which is the number of days during the taxable year the
 25 taxpayer owned the property. The investment credit may be

applied only to the tax liability of the taxpayer who purchases and places in service the property for which an investment credit is claimed.

(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 38--SECTION 15-39-162, HAS, IS AMENDED TO READ:~~

"15-39-162--investment--credits--(1)--There is allowed as a credit against the tax imposed by 15-39-193--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.

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

(a)--38% ~~28%~~ 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 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax liability in excess of \$2,500 unless the spouse of the taxpayer has no qualified investment for and no unused credit carryback or carryover to the taxable year of the spouse that ends with or within the taxpayer's taxable year.

(4)--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 (3), 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.

(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. ~~However, rehabilitation costs as set forth under section 46(a)(1)(F) of the Internal Revenue Code of 1954, or as section 46(a)(1)(F) may be renumbered or amended, are not to be included in the~~

1 ~~computation of the investment credit the credit is allowed~~
 2 ~~for the purchase and installation of certain qualified~~
 3 ~~property defined by section 38 of the Internal Revenue Code~~
 4 ~~of 1954 as amended if the property meets all of the~~
 5 ~~following qualifications:~~

6 ~~(1) it was placed in service in Montana and~~
 7 ~~(2) it was used for the production of Montana income;~~
 8 ~~SECTION 4. SECTION 15-31-123, MCA, IS AMENDED TO READ:~~
 9 ~~"15-31-123. Investment credit. (1) The purpose of~~
 10 ~~this section is to allow small businesses to take an~~
 11 ~~investment credit as provided for in subsection (3) and to~~
 12 ~~stimulate capital investment by the small business sector.~~
 13 ~~(2) For the purposes of this section, "small business"~~
 14 ~~means a business that is eligible to elect to be taxed under~~
 15 ~~the provisions of 15-31-292, whether or not such election is~~
 16 ~~made. does not have:~~

17 ~~(a) more than 10 shareholders;~~
 18 ~~(b) a person who is not an individual (other than an~~
 19 ~~estate or other than a trust described in 15-31-291) as a~~
 20 ~~shareholder;~~
 21 ~~(c) a nonresident alien as a shareholder; and~~
 22 ~~(d) more than one class of stock;~~

23 ~~(3) There is allowed as a credit against the taxes~~
 24 ~~imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage~~
 25 ~~of the credit allowed with respect to certain depreciable~~

1 ~~property under section 38 of the Internal Revenue Code of~~
 2 ~~1954 as amended or as section 38 may be renumbered or~~
 3 ~~amended. However, rehabilitation costs as set forth under~~
 4 ~~section 46(a)(2)(f) of the Internal Revenue Code of 1954 or~~
 5 ~~as section 46(a)(2)(f) may be renumbered or amended are not~~
 6 ~~to be included in the computation of the investment credit.~~
 7 ~~The credit is allowed for the purchase and installation of~~
 8 ~~certain qualified property defined by section 38 of the~~
 9 ~~Internal Revenue Code of 1954 as amended if the property~~
 10 ~~meets all of the following qualifications:~~

11 ~~(1) it was placed in service in Montana and~~
 12 ~~(2) it was used for the production of Montana income;~~
 13 ~~(4) the amount of the credit allowed for the taxable~~
 14 ~~year is the sum of:~~
 15 ~~(a) 30% 20% of the amount of credit determined under~~
 16 ~~section 46(a)(2) of the Internal Revenue Code of 1954 as~~
 17 ~~amended or as section 46(a)(2) may be renumbered or~~
 18 ~~amended;~~

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

21 ~~(c) the investment credit carrybacks carried to the~~
 22 ~~taxable year as provided for in subsection (6);~~

23 ~~(5) Notwithstanding the provisions of subsection (4),~~
 24 ~~the investment credit allowed for the taxable year may not~~
 25 ~~exceed the taxpayer's tax liability for the taxable year in~~

1 the event the taxpayer's tax liability for the taxable year
2 exceeds \$5,000, the investment credit may not exceed--\$5,000
3 plus 50% of the tax liability in excess of \$5,000.

4 (c) If any part of the investment credit is not
5 applied against the tax liability for the taxable year
6 because of the limitations imposed under subsection (5), the
7 unused portion shall be carried back and carried forward in
8 accordance with the provisions of section 46(b) of the
9 Internal Revenue Code of 1954 as amended or as section
10 46(b) may be renumbered or amended.

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

15 Section 3. Chapter 520, section 4, Laws of 1981, is
16 amended to read:

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

20 NEW SECTION. Section 4. Applicability. ~~the~~ Sections 1
21 and 2 are applicable to taxable years beginning after
22 December 31, 1982 ~~and before January 1, 1983. Sections 2 and~~
23 ~~4 are applicable to taxable years beginning after December~~
24 ~~31, 1984.~~

25 ~~(2) The carry-over of credits earned under 15-39-162~~

1 ~~HB 15-39-162 PRIOR TO JANUARY 1, 1983 ARE NOT AFFECTED BY~~
2 ~~THIS ACT.~~

3 NEW SECTION. Section 5. Effective date. This act is
4 effective on passage and approval.

-End-