HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

IN THE HOUSE

February 12, 1983	Introduced and referred to Select Committee on Economic Development.
March 23, 1983	Committee recommend bill do pass as amended. Report adopted.
March 24, 1983	Bill printed and placed on members' desks.
March 26, 1983	Second reading, do pass.
March 28, 1983	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

April 5, 1983	Introduced and referred to Committee on Taxation.
April 14, 1983	Committee recommend bill be concurred in as amended. Report adopted.
	Second reading, concurred in.
April 15, 1983	Third reading, concurred in. Ayes, 40; Noes, 8.

IN THE HOUSE

April 16, 1983	Returned to House with amendments.
April 18, 1983	Second reading, amendments concurred in.
	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 755

INTRODUCED BY Yardley Zabrocki Metcalf McBride Schye

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

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

Section 1. Purpose and statement of policy. The purpose of [this act] is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. Because of the wind energy potential within the state, it is desirable to encourage wind energy generation for the purpose of attracting wind energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure wind-generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to a wind energy industry without subtracting from existing sources of revenue to the state.

Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with

INTRODUCED BILL

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existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(l) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, notwithstanding the carryover provision of [section 4].

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from the taxpayer's tax liability for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no credit may be

carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162 and 15-31-123, may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

Section 7. Rules authorized. The department of revenue is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity

in the state as described in [section 2].

Section 8. Applicability. This act is applicable for tax years beginning after December 31, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 423-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 755 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 755 provides a credit against individual partnership, small business corporation, or corporate income tax liability for capital expenditures for commercial systems that generate electricity by means of wind power; provides for limitation on and carryover of the credit; and provides an applicability date.

FISCAL IMPACT:

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

FISCAL NOTE 14:B/1

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-83

Approved by Committee
on Economic Development

HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

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

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

Section 1. Purpose and statement of policy. The purpose of [this act] is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. Because of the wind energy potential within the state, it is desirable to encourage wind energy generation for the purpose of attracting wind energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure wind-generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to a wind energy industry without subtracting from existing sources of revenue to the state.

Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in CERTAIN DEPRECIABLE PROPERTY QUALIFYING UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, FOR a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those EXPENDITURES THAT QUALIFY UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, AND THAT ARE associated with the purchase, installation, or

SECOND READING

upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(1) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, notwithstanding the carryover provision of [section 4].

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from the taxpayer's tax liability for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the

tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162, ~~and~~ 15-31-123 THROUGH 15-31-125, [AND THE CREDITS PROVIDED IN SB 241], may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

Section 7. Rules authorized. The department of revenue is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state as described in [section 2].

<u>SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 241 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN SECTION 5 IS DELETED FROM THIS ACT.</u>

Section 9. Applicability. This act is applicable for tax years beginning after December 31, 1983.

-End-

HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

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

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Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in CERTAIN DEPRECIABLE PROPERTY QUALIFYING UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, FOR a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those EXPENDITURES THAT QUALIFY UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, AND THAT ARE associated with the purchase, installation, or

THIRD READING

upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(1) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, notwithstanding the carryover provision of [section 4].

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from the taxpayer's tax liability for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the

tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162, ~~and~~ 15-31-123 THROUGH 15-31-125, [AND THE CREDITS PROVIDED IN SB 241], may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

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(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state as described in [section 2].

SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 241 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN SECTION 5 IS DELETED FROM THIS ACT.

Section 9. Applicability. This act is applicable for tax years beginning after December 31, 1983.

-End-

April 14, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 755 be amended as follows:

1. Title, line 9.
Following: "APPLICABILITY DATE"
Insert: "AND AN IMMEDIATE EFFECTIVE DATE"

2. Page 3, lines 18 and 19.
Following: "costs"
Strike: remainder of line 18 through "4]" on line 19

3. Page 3, line 21.
Following: "from"
Insert: "that portion of"

4. Page 3, line 22.
Following: "liability"
Insert: "as set forth in [section 2(1)]"

5. Page 4, line 3.
Following: "credit"
Insert: ", subject to the limitation of [section 3],"

6. Page 5, line 9.
Following: line 8
Insert: ""[and the credits provided in SB 241]""

7. Page 5, line 10.
Following: "Section 9."
Strike: "Applicability"
Insert: "Effective and applicability date"
Following: "This act is"
Strike: "applicable for"
Insert: "effective on passage and approval and applies to"

9. Page 5, line 11.
Following: "December 31,"
Strike: "1983"
Insert: "1982"

HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

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

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

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Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in CERTAIN_DEPRECIABLE_PROPERTY_QUALIFYING_UNDER_SECTION_38__OF THE__INTERNAL__REVENUE__CODE__OF__1954,__AS__AMENDED,__FOR a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those EXPENDITURES_THAT_QUALIFY_UNDER SECTION_38_OF_THE_INTERNAL_REVENUE_CODE_OF_1954,_AS_AMENDED,

REFERENCE BILL

AND THAT ARE associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

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Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from THAT PORTION OF the taxpayer's tax liability AS SET FORTH IN [SECTION 2(1)] for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax

credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit, SUBJECT TO THE LIMITATION OF [SECTION 3], has been deducted from tax liability. However, no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162, ~~and~~ 15-31-123 THROUGH 15-31-125, [AND THE CREDITS PROVIDED IN SB 241], may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

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Section 7. Rules authorized. The department of revenue is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state as described in [section 2].

SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 241 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE [AND THE CREDITS PROVIDED IN SB 241] IN SECTION 5 IS DELETED FROM THIS ACT.

Section 9. ~~Applicability~~ EFFECTIVE AND APPLICABILITY DATE. This act is ~~applicable for~~ EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO tax years beginning after December 31, ~~1983~~ 1982.

-End-