HOUSE BILL NO. 868

Introduced: 02/16/83

Referred to Select Committee on Economic Development: 02/15/83

Rereferred to Committee on Taxation: 03/03/83
Hearing: 3/15/83
Died in Committee

House BILL NO. 868

INTRODUCED BY [signature]

BY REQUEST OF THE HOUSE BUSINESS AND INDUSTRY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INCOME TAX LIABILITY FOR INVESTMENTS IN THE MANUFACTURE OF RENEWABLE ENERGY EQUIPMENT; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; PROVIDING RULEMAKING AUTHORITY; 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 the manufacture or assembly of finished renewable energy equipment in Montana without adversely affecting tax revenues received from existing economic activity in the state. Sound fiscal policy requires that encouragement be given to a renewable energy equipment manufacturing industry without subtracting from existing sources of revenue to the state.

Section 2. Credit -- renewable energy equipment manufacturers. (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 business, located in Montana, engaged in the manufacture or assembly of

renewable energy equipment is entitled to a credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the investment, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by the new manufacturing or assembly business or the expanded portion of an existing manufacturing or assembly business producing finished renewable energy equipment. The credit for investments by a small business corporation electing to be taxed under 15-31-202 or a partnership may be claimed by the small business corporation shareholders or the partners.

(2) For purposes of claiming the tax credit allowed under subsection (1), a business manufacturing or assembling finished renewable energy equipment is a business producing finished renewable energy equipment that:

(a) is available for installation by a consumer in the form in which it leaves the business claiming the credit; and

(b) is a recognized nonfossil form of energy generation as defined in 15-32-102.

(3) The amount of the credit must be reduced by the amount of any grants provided by the state or federal government to the manufacturer.

Section 3. Limitation on credit. Whenever any federal tax credits for renewable energy equipment are allowed or

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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 investment, 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 investment by the taxpayer is made. 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 date. This act is applicable for tax years beginning after December 31, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 459-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 17, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 868 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 868 provides a credit against income tax liability for investments in the manufacture of renewable energy equipment; provides for limitation on and carryover of the credit; provides rulemaking authority; and provides an applicability date.

FISCAL IMPACT:

Income from existing facilities will not 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 16: I/1

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83