

SENATE BILL NO. 252

Introduced: 01/21/83

Referred to Committee on Taxation: 01/21/83

Hearing: 2/8/83

Report: 03/01/83, Do Pass, As Amended

2nd Reading: 03/03/83

3rd Reading: 03/04/83

Transmitted to House: 3/4/83

Referred to Committee on Taxation: 03/07/83

Hearing: 3/14/83

Died in Committee

*Senate* BILL NO. *252*  
*Barbara K. George*

1  
2 INTRODUCED BY \_\_\_\_\_  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN  
5 INVESTMENT CREDIT AGAINST THE CORPORATE LICENSE TAX;  
6 AMENDING SECTION 15-31-123, MCA, AND CHAPTER 520, SECTION 4,  
7 LAWS OF 1981; AND PROVIDING AN APPLICABILITY DATE."  
8

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

10 Section 1. 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)~~ (2) and to  
14 stimulate 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.~~

19 ~~(3)(2)~~ There is allowed as a credit against the taxes  
20 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage  
21 of the credit allowed with respect to certain depreciable  
22 property under section 38 of the Internal Revenue Code of  
23 1954, as amended, or as section 38 may be renumbered or  
24 amended.

25 ~~(4)(3)~~ The amount of the credit allowed for the

1 taxable year is the sum of:

2 (a) 30% of the amount of credit determined under  
3 section 46(a)(2) of the Internal Revenue Code of 1954, as  
4 amended, or as section 46(a)(2) may be renumbered or  
5 amended;

6 (b) the investment credit carryovers carried to the  
7 taxable year as provided in subsection ~~(6)~~ (5); and

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

10 ~~(5)(4)~~ Notwithstanding the provisions of subsection  
11 ~~(4)~~ (3), the investment credit allowed for the taxable year  
12 may not exceed the taxpayer's tax liability for the taxable  
13 year. ~~In the event the taxpayer's tax liability for the~~  
14 ~~taxable year exceeds \$5,000, the investment credit may not~~  
15 ~~exceed \$5,000 plus 50% of the tax liability in excess of~~  
16 ~~\$5,000.~~

17 ~~(6)(5)~~ If any part of the investment credit is not  
18 applied against the tax liability for the taxable year  
19 because of the limitations imposed under subsection ~~(5)~~ (4),  
20 the unused portion shall be carried back and carried forward  
21 in accordance with the provisions of section 46(b) of the  
22 Internal Revenue Code of 1954, as amended, or as section  
23 46(b) may be renumbered or amended.

24 ~~(7)(6)~~ The investment credit allowed by this section  
25 is subject to recapture as provided for in section 47 of the

1 Internal Revenue Code of 1954, as amended, or as section 47  
2 may be renumbered or amended."

3 Section 2. Chapter 520, section 4, Laws of 1981, is  
4 amended to read:

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

8 NEW SECTION. Section 3. Applicability. This act is  
9 applicable to taxable years beginning after December 31,  
10 1982, and unused portions of the investment credit may be  
11 carried back to prior years in accordance with 15-31-123(6).

-End-

STATE OF MONTANA

208-83  
REQUEST NO. \_\_\_\_\_

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 252 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.

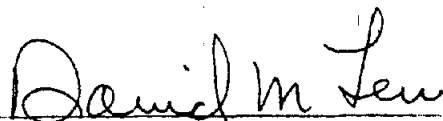
DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 252 provides for an investment credit against the corporate license tax and provides an applicability date.

FISCAL IMPACT:

It is not possible to estimate the fiscal impact of this proposal with any precision. However, this bill would substantially expand the number of corporations eligible for the credit, including multinationals with large investments outside Montana and the nation. For example, a review of a number of these returns produced available credits that far exceeded last year's total corporate license receipts. Even if the proposal were to limit the credit to property purchased in Montana, it is felt the receipts would decline by \$15 million to \$20 million.

FISCAL NOTE 8:H/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-27-83

Approved by committee  
on Taxation

SENATE BILL NO. 252  
INTRODUCED BY GOODOVER, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INVESTMENT CREDIT AGAINST ~~THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE TAX; AMENDING SECTIONS 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4, LAWS OF 1981; AND PROVIDING AN APPLICABILITY DATE."~~

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

Section 1. Section 15-31-123, MCA, is amended to read:

"15-31-123. Investment credit. (1) The purpose of this section is to allow ~~small~~ SMALL businesses to take an investaent credit as provided for in subsection ~~(3)~~ ~~(2)~~ (3) and to stimulate capital investment by the ~~small~~ 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.~~

(2) FOR THE PURPOSES OF THIS SECTION, "SMALL BUSINESS" MEANS A BUSINESS THAT IS ELIGIBLE TO ELECT TO BE TAXED UNDER THE PROVISIONS OF 15-31-202, WHETHER OR NOT SUCH ELECTION IS MADE.

~~(3)~~(2)(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, PROVIDING THE QUALIFYING SECTION 38 PROPERTY IS PLACED IN SERVICE AND USED PRINCIPALLY WITHIN MONTANA.

~~(4)~~(3)(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)~~ ~~(5)~~ (6); and

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

~~(5)~~(4)(5) Notwithstanding the provisions of subsection ~~(4)~~ ~~(3)~~ (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.~~ IN THE EVENT THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR EXCEEDS \$5,000, THE INVESTMENT CREDIT MAY NOT

1 ~~EXCEED \$5,000 PLUS 50% OF THE TAX LIABILITY IN EXCESS OF~~  
2 ~~\$5,000.~~

3 ~~(f)(5)(6)~~ 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)~~ ~~(4)~~  
6 ~~(5)~~, the unused portion shall be carried back and carried  
7 forward in accordance with the provisions of section 46(b)  
8 of the Internal Revenue Code of 1954, as amended, or as  
9 section 46(b) may be renumbered or amended.

10 ~~(7)(6)(7)~~ The investment credit allowed by this  
11 section is subject to recapture as provided for in section  
12 47 of the Internal Revenue Code of 1954, as amended, or as  
13 section 47 may be renumbered or amended."

14 ~~SECTION 2. SECTION 15-30-162, MCA, IS AMENDED TO READ:~~  
15 ~~"15-30-162. Investment credit. (1) There is allowed as~~  
16 ~~a credit against the tax imposed by 15-30-103 a percentage~~  
17 ~~of the credit allowed with respect to certain depreciable~~  
18 ~~property under section 38 of the Internal Revenue Code of~~  
19 ~~1954, as amended, or as section 38 may be renumbered or~~  
20 ~~amended, providing the qualifying section 38 property is~~  
21 ~~placed in service and used principally within Montana.~~

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

24 (a) ~~30%~~ 20% of the amount of credit determined under  
25 section 46(a)(2) of the Internal Revenue Code of 1954, as

1 amended, or as section 46(a)(2) may be renumbered or  
2 amended;

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

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

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

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

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

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

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

10 ~~NEW SECTION.~~ Section 4. Applicability. This act is  
11 applicable to taxable years beginning after December 31,  
12 1982, and unused portions of the investment credit may be  
13 carried back to prior years in accordance with ~~15-30-162(4)~~  
14 ~~DR 15-31-123(6)~~.

-End-

SENATE BILL NO. 252  
INTRODUCED BY GOODOVER, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INVESTMENT CREDIT AGAINST THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE TAX; AMENDING SECTION SECTIONS 15-30-162 AND 15-31-123, MCA, AND CHAPTER 520, SECTION 4, LAWS OF 1981; AND PROVIDING AN APPLICABILITY DATE."

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Section 1. Section 15-31-123, MCA, is amended to read:

"15-31-123. Investment credit. (1) The purpose of this section is to allow ~~small~~ SMALL businesses to take an investment credit as provided for in subsection ~~(3)~~ ~~(2)~~ (3) and to stimulate capital investment by the ~~small~~ 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.~~

(2) FOR THE PURPOSES OF THIS SECTION, "SMALL BUSINESS" MEANS A BUSINESS THAT IS ELIGIBLE TO ELECT TO BE TAXED UNDER THE PROVISIONS OF 15-31-202, WHETHER OR NOT SUCH ELECTION IS MADE.

~~(3)~~ ~~(2)~~ (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, PROVIDING THE QUALIFYING SECTION 38 PROPERTY IS PLACED IN SERVICE AND USED PRINCIPALLY WITHIN MONTANA.

~~(4)~~ ~~(3)~~ (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)~~ ~~(5)~~ (6); and

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

~~(5)~~ ~~(4)~~ (5) Notwithstanding the provisions of subsection ~~(4)~~ ~~(3)~~ (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.~~ IN THE EVENT THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR EXCEEDS \$5,000, THE INVESTMENT CREDIT MAY NOT



1 EXCEED \$5,000 PLUS 50% OF THE TAX LIABILITY IN EXCESS OF  
 2 \$5,000.

3 ~~(6)~~~~(5)~~~~(6)~~ 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)~~ ~~(4)~~  
 6 ~~(5)~~, the unused portion shall be carried back and carried  
 7 forward in accordance with the provisions of section 46(b)  
 8 of the Internal Revenue Code of 1954, as amended, or as  
 9 section 46(b) may be renumbered or amended.

10 ~~(7)~~~~(6)~~~~(7)~~ The investment credit allowed by this  
 11 section is subject to recapture as provided for in section  
 12 47 of the Internal Revenue Code of 1954, as amended, or as  
 13 section 47 may be renumbered or amended."

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 16 a credit against the tax imposed by 15-30-103 a percentage  
 17 of the credit allowed with respect to certain depreciable  
 18 property under section 38 of the Internal Revenue Code of  
 19 1954, as amended, or as section 38 may be renumbered or  
 20 amended, providing the qualifying section 38 property is  
 21 placed in service and used principally within Montana.

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 23 year is the sum of:

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 25 section 46(a)(2) of the Internal Revenue Code of 1954, as

1 amended, or as section 46(a)(2) may be renumbered or  
 2 amended;

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

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

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

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

1           [5] The investment credit allowed by this section is  
2 subject to recapture as provided for in section 47 of the  
3 Internal Revenue Code of 1954, as amended, or as section 47  
4 may be renumbered or amended."

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

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

10           ~~NEW SECTION.~~ Section 4. Applicability. This act is  
11 applicable to taxable years beginning after December 31,  
12 1982, and unused portions of the investment credit may be  
13 carried back to prior years in accordance with ~~15-30-162(4)~~  
14 OR 15-31-123(6).

-End-