

HOUSE BILL NO. 287

1/21 Introduced
1/21 Referred to Taxation
1/22 Fiscal Note Requested
1/26 Fiscal Note Received
3/22 Hearing
Died in Committee

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HOUSE BILL NO. 287
INTRODUCED BY *Boyd*
Hiack *Carv* *Boon* *Kalstad* *Amick*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE BUSINESS INVESTMENT CREDIT ALLOWED TO MONTANA TAXPAYERS; INCREASING THE CREDIT TO 30 PERCENT OF THE FEDERAL CREDIT; RAISING THE CEILING AMOUNT OF CREDIT THAT MAY BE CLAIMED; AMENDING SECTIONS 15-30-162 AND 15-31-123, MCA; AND PROVIDING AN APPLICABILITY DATE AND 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.~~
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:

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- (a) it was placed in service in Montana; and
- (b) it was used for the production of Montana adjusted gross income.
- (2) The amount of the credit allowed for the taxable year is 5% the sum of:
 - (a) 30% 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 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 or \$500, ~~whichever is less.~~ However, if 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



1 the taxpayer's taxable year.

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

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

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

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

6 (2) For the purposes of this section, "small business"
 7 means a business that does not have:

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

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

13 (d) more than one class of stock.

14 (3) There is allowed as a credit against the taxes
 15 imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
 16 of the credit allowed with respect to certain depreciable
 17 property under section 38 of the Internal Revenue Code of
 18 1954, as amended, or as section 38 may be renumbered or
 19 amended. ~~However, rehabilitation costs as set forth under~~
 20 ~~section 46(a)(2)(F) of the Internal Revenue Code of 1954 or~~
 21 ~~as section 46(a)(2)(F) may be renumbered or amended, are not~~
 22 ~~to be included in the computation of the investment credit.~~
 23 The credit is allowed for the purchase and installation of
 24 certain qualified property defined by section 38 of the
 25 Internal Revenue Code of 1954, as amended, if the property

1 meets all of the following qualifications:

- 2 (a) it was placed in service in Montana; and
 3 (b) it was used for the production of Montana income.
 4 (4) The amount of the credit allowed for the taxable
 5 year is 5% the sum of:

6 (a) 30% of the amount of credit determined under
 7 section 46(a)(2) of the Internal Revenue Code of 1954, as
 8 amended, or as section 46(a)(2) may be renumbered or
 9 amended;

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

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

14 (5) Notwithstanding the provisions of subsection (4),
 15 the investment credit allowed for the taxable year may not
 16 exceed \$500- the taxpayer's tax liability for the taxable
 17 year. In the event the taxpayer's tax liability for the
 18 taxable year exceeds \$5,000, the investment credit may not
 19 exceed \$5,000 plus 50% of the tax liability in excess of
 20 \$5,000.

21 (6) If any part of the investment credit is not
 22 applied against the tax liability for the taxable year
 23 because of the limitations imposed under subsection (5), the
 24 unused portion shall be carried back and carried forward in
 25 accordance with the provisions of section 46(b) of the

1 Internal Revenue Code of 1954, as amended, or as section
 2 46(b) may be renumbered or amended.

3 ~~(6)~~(7) If property for which an investment credit is
 4 claimed is used both inside and outside this state, only a
 5 portion of the credit is allowed. The credit must be
 6 apportioned according to a fraction the numerator of which
 7 is the number of days during the taxable year the property
 8 was located in Montana and the denominator of which is the
 9 number of days during the taxable year the taxpayer owned
 10 the property. The investment credit may be applied only to
 11 the tax liability of the taxpayer who purchases and places
 12 in service the property for which an investment credit is
 13 claimed.

14 ~~(7)~~(8) The investment credit allowed by this section
 15 is subject to recapture as provided for in section 47 of the
 16 Internal Revenue Code of 1954, as amended, or as section 47
 17 may be renumbered or amended."

18 NEW SECTION. Section 3. Applicability. This act
 19 applies to taxable years beginning after December 31, 1984.

20 NEW SECTION. Section 4. Effective date. This act is
 21 effective on passage and approval.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 171-85

Form BD-15

In compliance with a written request received January 22, 19 85, there is hereby submitted a Fiscal Note for H.B. 287 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:

An act revising the business investment credit allowed to Montana taxpayers; increasing the credit to 30% of the federal credit; raising the ceiling amount of credit that may be claimed, and providing an applicability date and an immediate effective date.

ASSUMPTIONS:

1. Total Individual Income Tax revenue under current law is \$192,915,625 in FY 1986 and \$204,103,125 in FY 1987.
2. Total Corporation License Tax revenue under current law is \$46,807,813 in FY 1986 and \$50,475,000 in FY 1987.
3. Investment credits will rise to those levels present when past law contained the same credit parameters as the proposed law.

EFFECT ON REVENUE:

	<u>FY 86</u>			<u>FY 87</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax	\$192,915,625	\$187,040,596	(\$5,875,029)	\$204,103,125	\$198,099,433	(\$6,003,692)
Corporate License Tax	\$ 46,807,813	\$ 44,411,068	(\$2,396,745)	\$ 50,475,000	\$ 47,949,902	(\$2,525,098)
TOTAL	\$239,723,438	\$231,451,664	(\$8,271,774)	\$254,578,125	\$246,049,335	(\$8,528,790)

Fund Information:

General Fund	\$153,423,000	\$148,129,065	(\$5,293,935)	\$162,930,000	\$157,471,574	(\$5,458,426)
Earmarked Rev. Fund (Foundation Program)	\$ 59,930,860	\$ 57,862,916	(\$2,067,944)	\$ 63,644,531	\$ 61,512,334	(\$2,132,197)
Capital Fund	\$26,369,578	\$ 25,459,683	(\$ 909,895)	\$ 28,003,594	\$ 27,065,427	(\$ 938,167)

Because any loss to Foundation Program must be replaced by General Fund dollars and any loss to the capitol fund reduces revenue from Long Range Bond excess the actual general fund impact is \$16,800,564.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 25, 1985
HB 287