

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

IN THE HOUSE

FEBRUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 25, 1991 PRINTING REPORT.

APRIL 3, 1991 SECOND READING, DO PASS AS AMENDED.

 ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

 THIRD READING, PASSED.
AYES, 93; NOES, 7.

APRIL 4, 1991 ENGROSSING REPORT.

IN THE SENATE

APRIL 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

APRIL 12, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 15, 1991 SECOND READING, CONCURRED IN.

APRIL 16, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 18, 1991 RECEIVED FROM SENATE.

APRIL 19, 1991

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 970
INTRODUCED BY *Cassidy* *Anders* *Boyer*

2 *Harvey* *Hammer* *Lucas* *Hoffman* *Don* *Thomas* *Dillert*
3 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
4 TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
5 DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
6 PROPERTY TO INCLUDE TRANSPORTATION, WAREHOUSING,

7 DISTRIBUTION, AND COMMUNICATION SERVICES; REQUIRING THAT A
8 NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM
9 OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR CLASS FIVE
10 PROPERTY; REVISING THE DEFINITION OF A NEW OR EXPANDING
11 INDUSTRY THAT QUALIFIES FOR CERTAIN PROPERTY TAX BENEFITS;
12 REQUIRING THAT A QUALIFYING INDUSTRY RECEIVE 50 PERCENT OR
13 MORE OF ITS INCOME FROM SALES OUTSIDE THE JURISDICTION IN
14 WHICH IT IS LOCATED; APPLYING THE PROPERTY TAX BENEFIT TO
15 ALL MILLS LEVIED AGAINST THE QUALIFYING PROPERTY; REVISING
16 THE DEFINITION OF A NEW CORPORATION QUALIFYING FOR THE NEW
17 OR EXPANDED INDUSTRY CREDIT; AND AMENDING SECTIONS 15-6-135,
18 15-24-1401, 15-24-1402, AND 15-31-124, MCA."

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20
21 **Section 1.** Section 15-6-135, MCA, is amended to read:
22 "15-6-135. Class five property -- description --
23 taxable percentage. (1) Class five property includes:
24 (a) all property used and owned by cooperative rural
25

1 electrical and cooperative rural telephone associations
2 organized under the laws of Montana, except property owned
3 by cooperative organizations described in subsection (1)(b)
4 of 15-6-137;

5 (b) air and water pollution control equipment as
6 defined in this section;

7 (c) new industrial property as defined in this section;

8 (d) any personal or real property used primarily in the
9 production of gasohol during construction and for the first
10 3 years of its operation;

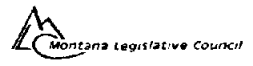
11 (e) all land and improvements and all personal property
12 owned by a research and development firm, provided that the
13 property is actively devoted to research and development;

14 (f) machinery and equipment used in electrolytic
15 reduction facilities.

16 (2) (a) "Air and water pollution equipment" means
17 facilities, machinery, or equipment used to reduce or
18 control water or atmospheric pollution or contamination by
19 removing, reducing, altering, disposing, or storing
20 pollutants, contaminants, wastes, or heat. The department of
21 health and environmental sciences shall determine if such
22 utilization is being made.

23 (b) The department of health and environmental
24 sciences' determination as to air and water pollution
25 equipment may be appealed to the board of health and

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1 environmental sciences and may not be appealed to either a
2 county tax appeal board or the state tax appeal board.
3 However, the appraised value of the equipment as determined
4 by the department of revenue may be appealed to the county
5 tax appeal board and the state tax appeal board.

6 (3) "New industrial property" means any new industrial
7 plant, including land, buildings, machinery, and fixtures,
8 used by new industries during the first 3 years of their
9 operation. The property may not have been assessed within
10 the state of Montana prior to July 1, 1961.

11 (4) (a) "New industry" means any person, corporation,
12 firm, partnership, association, or other group that
13 establishes a new plant in Montana for the operation of a
14 new industrial endeavor; and that earns 50% or more of its
15 gross operating income from out-of-state sales. ~~as~~ New
16 industry is distinguished from a mere expansion,
17 reorganization, or merger of an existing industry.

18 (b) New industry includes ~~only those~~ industries that:

19 (i) manufacture, mill, mine, produce, process, or
20 fabricate materials;

21 (ii) do similar work, employing capital and labor, in
22 which materials unserviceable in their natural state are
23 extracted, processed, or made fit for use or are
24 substantially altered or treated so as to create commercial
25 products or materials; or

1 (iii) engage in the mechanical or chemical
2 transformation of materials or substances into new products
3 in the manner defined as manufacturing in the ~~1972~~ 1987
4 Standard Industrial Classification Manual prepared by the
5 United States office of management and budget; or

6 (iv) provide transportation, warehousing, distribution,
7 or communications services.

8 (5) New industrial property does not include:

9 (a) property used by retail or wholesale merchants,
10 commercial services of any type, agriculture, trades, or
11 professions;

12 (b) a plant that will create adverse impact on existing
13 state, county, or municipal services; or

14 (c) property used or employed in any industrial plant
15 that has been in operation in this state for 3 years or
16 longer.

17 (6) Class five property is taxed at 3% of its market
18 value."

19 **Section 2.** Section 15-24-1401, MCA, is amended to read:

20 "15-24-1401. **Definitions.** The following definitions
21 apply to 15-24-1402 unless the context requires otherwise:

22 (1) "Expansion" means that the industry has added after
23 July 1, 1987, at least \$250,000 worth of qualifying
24 improvements or modernized processes to its property within
25 the same jurisdiction either in the first tax year in which

1 the benefits provided for in 15-24-1402 are to be received
2 or in the preceding tax year.

3 (2) "Industry" means a firm that receives 50% or more
4 of its gross operating income from sales outside the
5 jurisdiction approving the tax benefits described in
6 15-24-1402. Industry includes but is not limited to a firm
7 that engages in the:

8 (a) mechanical or chemical transformation of materials
9 or substances into products in the manner defined as
10 manufacturing in the 1972 Standard Industrial Classification
11 Manual prepared by the United States office of management
12 and budget;

13 (b) extraction or harvesting of minerals, ore, or
14 forestry products; or

15 (c) processing of Montana raw materials such as
16 minerals, ore, agricultural products, and forestry products;
17 or

18 (d) provision of transportation, warehousing,
19 distribution, or communications services.

20 (3) "New" means that the industry is new to the
21 jurisdiction approving the resolution provided for in
22 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at
23 least \$500,000 worth of qualifying improvements or
24 modernized processes in the jurisdiction either in the first
25 tax year in which the benefits provided for in 15-24-1402

1 are to be received or in the preceding tax year. New
2 industry does not include property treated as new industrial
3 property under 15-6-135.

4 (4) "Qualifying" means meeting all the terms,
5 conditions, and requirements for a reduction in taxable
6 value under 15-24-1401 and 15-24-1402."

7 **Section 3.** Section 15-24-1402, MCA, is amended to read:

8 **"15-24-1402. New or expanding industry -- assessment.**

9 (1) In the first 5 years after a construction permit is
10 issued, qualifying improvements or modernized processes that
11 represent new industry or expansion of an existing industry,
12 as designated in the approving resolution, shall be taxed at
13 50% of their taxable value. Each year thereafter, the
14 percentage shall be increased by equal percentages until the
15 full taxable value is attained in the 10th year. In
16 subsequent years, the property shall be taxed at 100% of its
17 taxable value.

18 (2) (a) In order for a taxpayer to receive the tax
19 benefits described in subsection (1), the governing body of
20 the affected county or the incorporated city or town must
21 have approved by separate resolution for each project,
22 following due notice as defined in 76-15-103 and a public
23 hearing, the use of the schedule provided for in subsection
24 (1) for its respective jurisdiction. The governing body may
25 not grant approval for the project until all of the

1 applicant's taxes have been paid in full. Taxes paid under
2 protest do not preclude approval.

3 (b) The governing body may end the tax benefits by
4 majority vote at any time, but the tax benefits may not be
5 denied an industrial facility that previously qualified for
6 the benefits.

7 (c) The resolution provided for in subsection (2)(a)
8 shall include a definition of the improvements or modernized
9 processes that qualify for the tax treatment that is to be
10 allowed in the taxing jurisdiction. The resolution may
11 provide that real property other than land, personal
12 property, improvements, or any combination thereof is
13 eligible for the tax benefits described in subsection (1).

14 (3) The taxpayer must apply to the county assessor on a
15 form provided by the department of revenue for the tax
16 treatment allowed under subsection (1). The application by
17 the taxpayer must first be approved by the governing body of
18 the appropriate local taxing jurisdiction, and the governing
19 body must indicate in its approval that the property of the
20 applicant qualifies for the tax treatment provided for in
21 this section. Upon receipt of the form with the approval of
22 the governing body of the affected taxing jurisdiction, the
23 assessor shall make the assessment change pursuant to this
24 section.

25 (4) The tax benefit described in subsection (1) applies

1 only to the--number--of all mills levied and assessed,
2 including for--local--high--school--district-and-elementary
3 school-district-purposes-and-to-the-number-of--mills--levied
4 and--assessed--by--the--governing-body-approving-the-benefit
5 over-which-the-governing-body-has--sole--discretion;--In--no
6 case--may--the--benefit-described-in-subsection-(1)--apply-to
7 levies or assessments required under Title 15, chapter 10,
8 20-9-331, 20-9-333, or otherwise required under state law in
9 the taxing units in which the qualifying property is
10 located."

11 **Section 4.** Section 15-31-124, MCA, is amended to read:
12 "15-31-124. **New** or expanded industry credit --
13 definitions. As used in 15-31-124 through 15-31-127, the
14 following definitions apply:

15 (1) "Department" means the department of revenue.

16 (2) "Expanding" means to expand or diversify a present
17 operation to increase total full-time jobs by 30% or more.

18 (3) "Manufacturing" means the process of mechanical or
19 chemical transformation of materials or substances into new
20 products, as described in the standard industrial
21 classification manual of 1972 by the office of management
22 and budget of the United States.

23 (4) (a) "New corporation" means a corporation engaging
24 in manufacturing for the first time in this state, and
25 manufacturing--a--product--not--currently--manufactured--or

1 ~~substantially-similar-to-a-product-currently-manufactured-by~~
2 ~~that-corporation-or-any-affiliate-corporation-in-this-state;~~

3 A new corporation includes:

4 (i) a manufacturing corporation existing outside of
5 Montana that enters into manufacturing in the state;

6 (ii) a nonmanufacturing corporation within the state
7 that enters into manufacturing in the state; or

8 (iii) a corporation newly formed in Montana and entering
9 into manufacturing operations in the state.

10 (b) it A new corporation does not include:

11 (i) reorganizing--an a corporation reorganized from a
12 previously existing corporation that has been engaged in
13 manufacturing in this state; or

14 (ii) the--creation-of a corporation created as a parent,
15 subsidiary, or affiliate of an existing corporation that has
16 been engaged in manufacturing in this state of which 50% 20%
17 or more of the ownership is owned-or-controlled held by the
18 same--person;--corporation,--or-association corporation or by
19 the stockholders of the corporation."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0970, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to generally revise the tax treatment of new and expanding industry; revising the definition of a new industry that qualifies as class five property to include transportation, warehousing, distribution, and communication services; requiring that a new industry receive 50 percent or more of its income from out-of state sales in order to qualify for class five property; revising the definition of a new or expanding industry that qualifies for certain property tax benefits; requiring that a qualifying industry receive 50 percent or more of its income from sales outside the jurisdiction in which it is located; applying the property tax benefit to all mills levied against the qualifying property; revising the definition of a new corporation qualifying for the new or expanded industry credit.

FISCAL IMPACT:

Under the proposal, class 5 new industry property is expanded to include industries that provide transportation, warehousing, distribution, or communications services. To the extent that this additional language results in property currently being taxed being provided class 5 status, local and state revenue could decline. This impact is expected to be small. It also further restricts new industry to those industries which receive 50% or more of gross operating income from out-of-state sales.

Under the proposal, the benefit is extended to all mills levied and assessed against the property rather than just local property. Also new and expanding industry is expanded to include industries that provide transportation, warehousing, distribution, or communications services. To the extent that this additional language results in property currently being fully taxed at the state and school level being provided with reduced rates, state and school revenues could decline. To the extent that the expansion of the definition of new and expanding industry results in property currently being fully taxed being provided with reduced rates; local, state, and school revenues could decline. The impact of these is expected to be small. In addition, the proposal restricts new and expanding industry to those industries with 50% or more of gross operating income from outside the jurisdiction approving the tax benefits.

This proposal would significantly expand the number of companies that could potentially qualify for the new or expanded corporate tax benefit, impacting revenue to the state. Since the department does not have the number of potential qualifiers nor the dollar value of the claims, it is not possible to quantify this impact.


ROD SUNDESTED, BUDGET DIRECTOR 3-5-91 DATE
Office of Budget and Program Planning

 4/5/91
VICKI COCCHIARELLA, PRIMARY SPONSOR DATE

Fiscal Note for HB0970, as introduced

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Fiscal Note Request, HB0970, as introduced
Form BD-15
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TECHNICAL NOTES:

Language in section 1, 4b(iv), allowing warehousing industries to be considered new industry, may conflict with language in section 1 (5a), which excludes retail or wholesale merchants from new industry.

Language in section 1 (4a), restricting new industry to those industries with 50% or more of gross operating income from sales out-of-state and in section 2 (2), restricting new and expanding industry to those industries with 50% or more of gross operating income from sales outside the jurisdiction approving the tax benefits, may restrict industries currently receiving tax benefits under these sections.

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APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
WAREHOUSING, OR DISTRIBUTION, AND COMMUNICATION SERVICES,
REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF
ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR
CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF
50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES
OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES
THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING
INCOME FROM OUT-OF-STATE SALES; REVISING THE DEFINITION OF A
NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
PROPERTY TAX BENEFITS; REQUIRING THAT A QUALIFYING INDUSTRY
RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE
THE JURISDICTION IN WHICH IT IS LOCATED; APPLYING THE
PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE
QUALIFYING PROPERTY; REVISING THE DEFINITION OF A NEW
CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

CREDIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
15-24-1402, AND 15-31-124, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-6-135, MCA, is amended to read:
"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:
(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;
(b) air and water pollution control equipment as
defined in this section;
(c) new industrial property as defined in this section;
(d) any personal or real property used primarily in the
production of gasohol during construction and for the first
3 years of its operation;
(e) all land and improvements and all personal property
owned by a research and development firm, provided that the
property is actively devoted to research and development;
(f) machinery and equipment used in electrolytic
reduction facilities.
(2) (a) "Air and water pollution equipment" means

1 facilities, machinery, or equipment used to reduce or
 2 control water or atmospheric pollution or contamination by
 3 removing, reducing, altering, disposing, or storing
 4 pollutants, contaminants, wastes, or heat. The department of
 5 health and environmental sciences shall determine if such
 6 utilization is being made.

7 (b) The department of health and environmental
 8 sciences' determination as to air and water pollution
 9 equipment may be appealed to the board of health and
 10 environmental sciences and may not be appealed to either a
 11 county tax appeal board or the state tax appeal board.
 12 However, the appraised value of the equipment as determined
 13 by the department of revenue may be appealed to the county
 14 tax appeal board and the state tax appeal board.

15 (3) "New industrial property" means any new industrial
 16 plant, including land, buildings, machinery, and fixtures,
 17 used by new industries during the first 3 years of their
 18 operation. The property may not have been assessed within
 19 the state of Montana prior to July 1, 1961.

20 (4) (a) "New industry" means any person, corporation,
 21 firm, partnership, association, or other group that
 22 establishes a new plant in Montana for the operation of a
 23 new industrial endeavor, ~~and that earns 50% or more of its~~
 24 ~~gross operating--income--from--out-of-state--sales,~~ as New
 25 industry--is, AS distinguished from a mere expansion,

1 reorganization, or merger of an existing industry.

2 (b) New industry includes ~~only--those~~ ONLY THOSE
 3 industries that:

4 (i) manufacture, mill, mine, produce, process, or
 5 fabricate materials;

6 (ii) do similar work, employing capital and labor, in
 7 which materials unserviceable in their natural state are
 8 extracted, processed, or made fit for use or are
 9 substantially altered or treated so as to create commercial
 10 products or materials; ~~or~~

11 (iii) engage in the mechanical or chemical
 12 transformation of materials or substances into new products
 13 in the manner defined as manufacturing in the ~~1972~~ 1987
 14 Standard Industrial Classification Manual prepared by the
 15 United States office of management and budget; ~~or~~

16 (iv) provide ENGAGE IN THE transportation, warehousing,
 17 OR distribution,--or--communications-services OF COMMERCIAL
 18 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
 19 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
 20 STATE; OR

21 (V) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
 22 INCOME FROM OUT-OF-STATE SALES.

23 (5) New industrial property does not include:

24 (a) property used by retail or wholesale merchants,
 25 commercial services of any type, agriculture, trades, or

1 professions UNLESS THE BUSINESS OR PROFESSION MEETS THE
 2 REQUIREMENTS OF SUBSECTION (4)(B)(V);

3 (b) a plant that will create adverse impact on existing
 4 state, county, or municipal services; or

5 (c) property used or employed in any industrial plant
 6 that has been in operation in this state for 3 years or
 7 longer.

8 (6) Class five property is taxed at 3% of its market
 9 value."

10 **Section 2.** Section 15-24-1401, MCA, is amended to read:

11 ***15-24-1401. Definitions.** The following definitions
 12 apply to 15-24-1402 unless the context requires otherwise:

13 (1) "Expansion" means that the industry has added after
 14 July 1, 1987, at least \$250,000 worth of qualifying
 15 improvements or modernized processes to its property within
 16 the same jurisdiction either in the first tax year in which
 17 the benefits provided for in 15-24-1402 are to be received
 18 or in the preceding tax year.

19 (2) "Industry" ~~means--a-firm-that-receives-50%-or-more~~
 20 ~~of--its--gross--operating--income--from--sales--outside--the~~
 21 ~~jurisdiction--approving--the--tax--benefits---described---in~~
 22 ~~±5-24-1402;--Industry~~ includes but is not limited to a firm
 23 that engages in the:

24 (a) mechanical or chemical transformation of materials
 25 or substances into products in the manner defined as

1 manufacturing in the 1972 Standard Industrial Classification
 2 Manual prepared by the United States office of management
 3 and budget;

4 (b) extraction or harvesting of minerals, ore, or
 5 forestry products; ~~or~~

6 (c) processing of Montana raw materials such as,
 7 minerals, ore, agricultural products, and forestry products;
 8 ~~or~~

9 ~~(d) provision--of~~ transportation, ~~warehousing,~~ OR
 10 ~~distribution,--or--communications--services~~ OF COMMERCIAL
 11 ~~PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS~~
 12 ~~OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE~~
 13 ~~STATE; OR~~

14 ~~(E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING~~
 15 ~~INCOME FROM OUT-OF-STATE SALES.~~

16 (3) "New" means that the ~~industry~~ FIRM is new to the
 17 jurisdiction approving the resolution provided for in
 18 15-24-1402~~±3~~(2) and has invested after July 1, 1987, at
 19 least \$500,000 worth of qualifying improvements or
 20 modernized processes in the jurisdiction either in the first
 21 tax year in which the benefits provided for in 15-24-1402
 22 are to be received or in the preceding tax year. New
 23 industry does not include property treated as new industrial
 24 property under 15-6-135.

25 (4) "Qualifying" means meeting all the terms,

1 conditions, and requirements for a reduction in taxable
2 value under 15-24-1401 and 15-24-1402."

3 **Section 3.** Section 15-24-1402, MCA, is amended to read:

4 "15-24-1402. **New or expanding industry -- assessment.**

5 (1) In the first 5 years after a construction permit is
6 issued, qualifying improvements or modernized processes that
7 represent new industry or expansion of an existing industry,
8 as designated in the approving resolution, shall be taxed at
9 50% of their taxable value. Each year thereafter, the
10 percentage shall be increased by equal percentages until the
11 full taxable value is attained in the 10th year. In
12 subsequent years, the property shall be taxed at 100% of its
13 taxable value.

14 (2) (a) In order for a taxpayer to receive the tax
15 benefits described in subsection (1), the governing body of
16 the affected county or the incorporated city or town must
17 have approved by separate resolution for each project,
18 following due notice as defined in 76-15-103 and a public
19 hearing, the use of the schedule provided for in subsection
20 (1) for its respective jurisdiction. The governing body may
21 not grant approval for the project until all of the
22 applicant's taxes have been paid in full. Taxes paid under
23 protest do not preclude approval.

24 (b) The governing body may end the tax benefits by
25 majority vote at any time, but the tax benefits may not be

1 denied an industrial facility that previously qualified for
2 the benefits.

3 (c) The resolution provided for in subsection (2)(a)
4 shall include a definition of the improvements or modernized
5 processes that qualify for the tax treatment that is to be
6 allowed in the taxing jurisdiction. The resolution may
7 provide that real property other than land, personal
8 property, improvements, or any combination thereof is
9 eligible for the tax benefits described in subsection (1).

10 (3) The taxpayer must apply to the county assessor on a
11 form provided by the department of revenue for the tax
12 treatment allowed under subsection (1). The application by
13 the taxpayer must first be approved by the governing body of
14 the appropriate local taxing jurisdiction, and the governing
15 body must indicate in its approval that the property of the
16 applicant qualifies for the tax treatment provided for in
17 this section. Upon receipt of the form with the approval of
18 the governing body of the affected taxing jurisdiction, the
19 assessor shall make the assessment change pursuant to this
20 section.

21 (4) The tax benefit described in subsection (1) applies
22 ~~only to the--number--of~~ all mills levied and assessed,
23 including for--local--high--school--district--and--elementary
24 school--district--purposes--and--to--the--number--of--mills--levied
25 and--assessed--by--the--governing--body--approving--the--benefit

1 ~~over which the governing body has sole discretion in no~~
2 ~~case may the benefit described in subsection (i) apply to~~
3 levies or assessments required under Title 15, chapter 10,
4 20-9-331, 20-9-333, or otherwise required under state law in
5 the taxing units in which the qualifying property is
6 located."

7 **Section 4.** Section 15-31-124, MCA, is amended to read:
8 "15-31-124. **New or expanded industry credit --**
9 **definitions.** As used in 15-31-124 through 15-31-127, the
10 following definitions apply:

- 11 (1) "Department" means the department of revenue.
- 12 (2) "Expanding" means to expand or diversify a present
13 operation to increase total full-time jobs by 30% or more.
- 14 (3) "Manufacturing" means the process of mechanical or
15 chemical transformation of materials or substances into new
16 products, as described in the standard industrial
17 classification manual of 1972 by the office of management
18 and budget of the United States.

19 (4) (a) "New corporation" means a corporation engaging
20 in manufacturing for the first time in this state, ~~and~~
21 ~~manufacturing a product not currently manufactured or~~
22 ~~substantially similar to a product currently manufactured by~~
23 ~~that corporation or any affiliate corporation in this state.~~
24 A new corporation includes:

25 (i) a manufacturing corporation existing outside of

- 1 Montana that enters into manufacturing in the state;
- 2 (ii) a nonmanufacturing corporation within the state
3 that enters into manufacturing in the state; or
- 4 (iii) a corporation newly formed in Montana and entering
5 into manufacturing operations in the state.
- 6 (b) ~~it~~ A new corporation does not include:
- 7 (i) reorganizing--an a corporation reorganized from a
8 previously existing corporation that has been engaged in
9 manufacturing in this state; or
- 10 (ii) ~~the--creation-of~~ a corporation created as a parent,
11 subsidiary, or affiliate of an existing corporation that has
12 been engaged in manufacturing in this state of which 50% 20%
13 or more of the ownership is owned-or-controlled held by the
14 same--person,--corporation,--or-association corporation or by
15 the stockholders of the corporation."

16 NEW SECTION. SECTION 5. EFFECTIVE DATE -- RETROACTIVE
17 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
18 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
19 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990.

-End-

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
WAREHOUSING, OR DISTRIBUTION, AND COMMUNICATION SERVICES,
REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF
ITS INCOME FROM OUT-OF-STATE SALES IN ORDER TO QUALIFY FOR
CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF
50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES
OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES
THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING
INCOME FROM OUT-OF-STATE SALES; REVISING THE DEFINITION OF A
NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
PROPERTY TAX BENEFITS; REQUIRING THAT A QUALIFYING INDUSTRY
RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE
THE JURISDICTION IN WHICH IT IS LOCATED, APPLYING THE
PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE
QUALIFYING PROPERTY; REVISING THE DEFINITION OF A NEW
CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

CREDIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
~~15-24-1402~~, AND 15-31-124, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;

(b) air and water pollution control equipment as
defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the
production of gasohol during construction and for the first
3 years of its operation;

(e) all land and improvements and all personal property
owned by a research and development firm, provided that the
property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic
reduction facilities.

(2) (a) "Air and water pollution equipment" means

1 facilities, machinery, or equipment used to reduce or
 2 control water or atmospheric pollution or contamination by
 3 removing, reducing, altering, disposing, or storing
 4 pollutants, contaminants, wastes, or heat. The department of
 5 health and environmental sciences shall determine if such
 6 utilization is being made.

7 (b) The department of health and environmental
 8 sciences' determination as to air and water pollution
 9 equipment may be appealed to the board of health and
 10 environmental sciences and may not be appealed to either a
 11 county tax appeal board or the state tax appeal board.
 12 However, the appraised value of the equipment as determined
 13 by the department of revenue may be appealed to the county
 14 tax appeal board and the state tax appeal board.

15 (3) "New industrial property" means any new industrial
 16 plant, including land, buildings, machinery, and fixtures,
 17 used by new industries during the first 3 years of their
 18 operation. The property may not have been assessed within
 19 the state of Montana prior to July 1, 1961.

20 (4) (a) "New industry" means any person, corporation,
 21 firm, partnership, association, or other group that
 22 establishes a new plant in Montana for the operation of a
 23 new industrial endeavor, ~~and that earns 50% or more of its~~
 24 ~~gross operating income from out-of-state sales;~~ as New
 25 industry--is, AS distinguished from a mere expansion,

1 reorganization, or merger of an existing industry.

2 (b) New industry includes ~~only--these~~ ONLY THOSE
 3 industries that:

4 (i) manufacture, mill, mine, produce, process, or
 5 fabricate materials;

6 (ii) do similar work, employing capital and labor, in
 7 which materials unserviceable in their natural state are
 8 extracted, processed, or made fit for use or are
 9 substantially altered or treated so as to create commercial
 10 products or materials; or

11 (iii) engage in the mechanical or chemical
 12 transformation of materials or substances into new products
 13 in the manner defined as manufacturing in the ~~1972~~ 1987
 14 Standard Industrial Classification Manual prepared by the
 15 United States office of management and budget; or

16 (iv) provide ENGAGE IN THE transportation, warehousing,
 17 OR distribution;--or--communications-services OF COMMERCIAL
 18 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
 19 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
 20 STATE; OR

21 (V) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
 22 INCOME FROM OUT-OF-STATE SALES.

23 (5) New industrial property does not include:

24 (a) property used by retail or wholesale merchants,
 25 commercial services of any type, agriculture, trades, or

1 professions UNLESS THE BUSINESS OR PROFESSION MEETS THE
 2 REQUIREMENTS OF SUBSECTION (4)(B)(V);

3 (b) a plant that will create adverse impact on existing
 4 state, county, or municipal services; or

5 (c) property used or employed in any industrial plant
 6 that has been in operation in this state for 3 years or
 7 longer.

8 (6) Class five property is taxed at 3% of its market
 9 value."

10 **Section 2.** Section 15-24-1401, MCA, is amended to read:

11 "15-24-1401. Definitions. The following definitions
 12 apply to 15-24-1402 unless the context requires otherwise:

13 (1) "Expansion" means that the industry has added after
 14 July 1, 1987, at least ~~\$250,000~~ \$50,000 worth of qualifying
 15 improvements or modernized processes to its property within
 16 the same jurisdiction either in the first tax year in which
 17 the benefits provided for in 15-24-1402 are to be received
 18 or in the preceding tax year.

19 (2) "Industry" ~~means--a-firm-that-receives-50%-or-more~~
 20 ~~of--its--gross--operating--income--from--sales--outside--the~~
 21 ~~jurisdiction--approving--the--tax--benefits--described--in~~
 22 ~~15-24-1402;--Industry~~ includes but is not limited to a firm
 23 that engages in the:

24 (a) mechanical or chemical transformation of materials
 25 or substances into products in the manner defined as

1 manufacturing in the 1972 Standard Industrial Classification
 2 Manual prepared by the United States office of management
 3 and budget;

4 (b) extraction or harvesting of minerals, ore, or
 5 forestry products; or

6 (c) processing of Montana raw materials such as
 7 minerals, ore, agricultural products, and forestry products;
 8 or

9 ~~(d) provision--of transportation, warehousing, OR~~
 10 ~~distribution,--or--communications--services OF COMMERCIAL~~
 11 ~~PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS~~
 12 ~~OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE~~
 13 ~~STATE; OR~~

14 ~~(E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING~~
 15 ~~INCOME FROM OUT-OF-STATE SALES.~~

16 (3) "New" means that the industry FIRM is new to the
 17 jurisdiction approving the resolution provided for in
 18 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at
 19 least ~~\$500,000~~ \$125,000 worth of qualifying improvements or
 20 modernized processes in the jurisdiction either in the first
 21 tax year in which the benefits provided for in 15-24-1402
 22 are to be received or in the preceding tax year. New
 23 industry does not include property treated as new industrial
 24 property under 15-6-135.

25 (4) "Qualifying" means meeting all the terms,

1 conditions, and requirements for a reduction in taxable
2 value under 15-24-1401 and 15-24-1402."

3 Section 3, Section 15-24-1402, MCA, is amended to read:
4 "15-24-1402. New or expanding industry assessment:
5 (1) In the first 5 years after a construction permit is
6 issued, qualifying improvements or modernized processes that
7 represent new industry or expansion of an existing industry
8 as designated in the approving resolution, shall be taxed at
9 50% of their taxable value. Each year thereafter, the
10 percentage shall be increased by equal percentages until the
11 full taxable value is attained in the 10th year. In
12 subsequent years, the property shall be taxed at 100% of its
13 taxable value.

14 (2) (a) In order for a taxpayer to receive the tax
15 benefits described in subsection (1), the governing body of
16 the affected county or the incorporated city or town must
17 have approved by separate resolution for each project,
18 following due notice as defined in 76-15-103 and a public
19 hearing, the use of the schedule provided for in subsection
20 (1) for its respective jurisdiction. The governing body may
21 not grant approval for the project until all of the
22 applicant's taxes have been paid in full. Taxes paid under
23 protest do not preclude approval.

24 (b) The governing body may end the tax benefits by
25 majority vote at any time, but the tax benefits may not be

1 denied an industrial facility that previously qualified for
2 the benefits.

3 (c) The resolution provided for in subsection (2) (a)
4 shall include a definition of the improvements or modernized
5 processes that qualify for the tax treatment that is to be
6 allowed in the taxing jurisdiction. The resolution may
7 provide that real property other than land, personal
8 property, improvements, or any combination thereof is
9 eligible for the tax benefits described in subsection (1).

10 (3) The taxpayer must apply to the county assessor on a
11 form provided by the department of revenue for the tax
12 treatment allowed under subsection (1). The application by
13 the taxpayer must first be approved by the governing body of
14 the appropriate local taxing jurisdiction, and the governing
15 body must indicate in its approval that the property of the
16 applicant qualifies for the tax treatment provided for in
17 this section. Upon receipt of the form with the approval of
18 the governing body of the affected taxing jurisdiction, the
19 assessor shall make the assessment change pursuant to this
20 section.

21 (4) The tax benefit described in subsection (1) applies
22 only to the number of all mills levied and assessed,
23 including for local high school district and elementary
24 school district purposes and to the number of mills levied
25 and assessed by the governing body approving the benefit

1 ~~over which the governing body has sole discretion. In no~~
 2 ~~case may the benefit described in subsection (i) apply to~~
 3 ~~levies or assessments required under Title 15, chapter 10,~~
 4 ~~20-9-331, 20-9-333, or otherwise required under state law in~~
 5 ~~the taxing units in which the qualifying property is~~
 6 ~~located."~~

7 **Section 3.** Section 15-31-124, MCA, is amended to read:
 8 "15-31-124. New or expanded industry credit --
 9 definitions. As used in 15-31-124 through 15-31-127, the
 10 following definitions apply:

- 11 (1) "Department" means the department of revenue.
- 12 (2) "Expanding" means to expand or diversify a present
 13 operation to increase total full-time jobs by 30% or more.

14 (3) "Manufacturing" means the process of mechanical or
 15 chemical transformation of materials or substances into new
 16 products, as described in the standard industrial
 17 classification manual of 1972 by the office of management
 18 and budget of the United States.

19 (4) (a) "New corporation" means a corporation engaging
 20 in manufacturing for the first time in this state, and
 21 ~~manufacturing a product not currently manufactured or~~
 22 ~~substantially similar to a product currently manufactured by~~
 23 ~~that corporation or any affiliate corporation in this state;~~
 24 A new corporation includes:

- 25 (i) a manufacturing corporation existing outside of

- 1 Montana that enters into manufacturing in the state;
- 2 (ii) a nonmanufacturing corporation within the state
 3 that enters into manufacturing in the state; or
- 4 (iii) a corporation newly formed in Montana and entering
 5 into manufacturing operations in the state.

6 (b) ~~it~~ A new corporation does not include:
 7 (i) reorganizing an a corporation reorganized from a
 8 previously existing corporation that has been engaged in
 9 manufacturing in this state; or

10 (ii) ~~the creation of~~ a corporation created as a parent,
 11 subsidiary, or affiliate of an existing corporation that has
 12 been engaged in manufacturing in this state of which 50% 20%
 13 or more of the ownership is owned or controlled held by the
 14 same person, corporation, or association corporation or by
 15 the stockholders of the corporation."

16 NEW SECTION. SECTION 4. EFFECTIVE DATE -- RETROACTIVE
 17 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
 18 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
 19 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990.

-End-

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 970 (third reading copy -- blue), respectfully report that House Bill No. 970 be amended and as so amended be concurred in:

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 1.
Following: "CREDIT;"
Insert: "REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF A TAX BENEFIT;"

3. Title, page 2, line 2.
Following: "~~15-24-1402,~~"
Insert: "15-24-1402,"

4. Title, page 2, line 3.
Strike: "A RETROACTIVE"
Insert: "AN"

5. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

6. Page 9.
Following: line 6
Insert: "Section 3. Section 15-24-1402, MCA, is amended to read:
"15-24-1402. New or expanding industry -- assessment --
notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.
(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority

vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.
(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.
Renumber: subsequent sections

7. Page 10, line 16.
Strike: "RETROACTIVE"

8. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-109," on line 19

9. Page 10, line 19.
Strike: "1990"
Insert: "1991"

Signed: 
Mike Halligan, Chairman

LB 4/12/91
Amd. Record.
SB 4/12 2:35
Sec. of Senate

SENATE

HB 970

781333SC.SLB

1 HOUSE BILL NO. 970
 2 INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
 3 STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
 4 DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
 5 PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN
 6
 7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 8 TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
 9 DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
 10 PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
 11 WAREHOUSING, OR DISTRIBUTION; ~~AND COMMUNICATION SERVICES;~~
 12 ~~REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF~~
 13 ~~ITS INCOME FROM OUT OF STATE SALES IN ORDER TO QUALIFY FOR~~
 14 ~~CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF~~
 15 50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES
 16 OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES
 17 THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING
 18 INCOME FROM OUT-OF-STATE SALES; REVISING THE DEFINITION OF A
 19 NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
 20 PROPERTY TAX BENEFITS; ~~REQUIRING THAT A QUALIFYING INDUSTRY~~
 21 ~~RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE~~
 22 ~~THE JURISDICTION IN WHICH IT IS LOCATED;~~ APPLYING ~~THE~~
 23 ~~PROPERTY TAX BENEFIT TO ALL MILLS LEVIED AGAINST THE~~
 24 ~~QUALIFYING PROPERTY;~~ REVISING THE DEFINITION OF A NEW
 25 CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

1 CREDIT; REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED
 2 TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF
 3 A TAX BENEFIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
 4 ~~15-24-1402,~~ 15-24-1402, AND 15-31-124, MCA; AND PROVIDING AN
 5 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE AN APPLICABILITY
 6 DATE."
 7

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

9 Section 1. Section 15-6-135, MCA, is amended to read:

10 "15-6-135. Class five property -- description --
 11 taxable percentage. (1) Class five property includes:

12 (a) all property used and owned by cooperative rural
 13 electrical and cooperative rural telephone associations
 14 organized under the laws of Montana, except property owned
 15 by cooperative organizations described in subsection (1)(b)
 16 of 15-6-137;

17 (b) air and water pollution control equipment as
 18 defined in this section;

19 (c) new industrial property as defined in this section;

20 (d) any personal or real property used primarily in the
 21 production of gasohol during construction and for the first
 22 3 years of its operation;

23 (e) all land and improvements and all personal property
 24 owned by a research and development firm, provided that the
 25 property is actively devoted to research and development;



1 (f) machinery and equipment used in electrolytic
2 reduction facilities.

3 (2) (a) "Air and water pollution equipment" means
4 facilities, machinery, or equipment used to reduce or
5 control water or atmospheric pollution or contamination by
6 removing, reducing, altering, disposing, or storing
7 pollutants, contaminants, wastes, or heat. The department of
8 health and environmental sciences shall determine if such
9 utilization is being made.

10 (b) The department of health and environmental
11 sciences' determination as to air and water pollution
12 equipment may be appealed to the board of health and
13 environmental sciences and may not be appealed to either a
14 county tax appeal board or the state tax appeal board.
15 However, the appraised value of the equipment as determined
16 by the department of revenue may be appealed to the county
17 tax appeal board and the state tax appeal board.

18 (3) "New industrial property" means any new industrial
19 plant, including land, buildings, machinery, and fixtures,
20 used by new industries during the first 3 years of their
21 operation. The property may not have been assessed within
22 the state of Montana prior to July 1, 1961.

23 (4) (a) "New industry" means any person, corporation,
24 firm, partnership, association, or other group that
25 establishes a new plant in Montana for the operation of a

1 new industrial endeavor, and that earns 50% or more of its
2 gross operating income from out-of-state sales, as New
3 industry--is, AS distinguished from a mere expansion,
4 reorganization, or merger of an existing industry.

5 (b) New industry includes only--those ONLY THOSE
6 industries that:

7 (i) manufacture, mill, mine, produce, process, or
8 fabricate materials;

9 (ii) do similar work, employing capital and labor, in
10 which materials unserviceable in their natural state are
11 extracted, processed, or made fit for use or are
12 substantially altered or treated so as to create commercial
13 products or materials; or

14 (iii) engage in the mechanical or chemical
15 transformation of materials or substances into new products
16 in the manner defined as manufacturing in the 1972 1987
17 Standard Industrial Classification Manual prepared by the
18 United States office of management and budget; or

19 (iv) provide ENGAGE IN THE transportation, warehousing,
20 OR distribution--or--communications-services OF COMMERCIAL
21 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
22 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
23 STATE; OR

24 (V) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
25 INCOME FROM OUT-OF-STATE SALES.

1 (5) New industrial property does not include:

2 (a) property used by retail or wholesale merchants,
3 commercial services of any type, agriculture, trades, or
4 professions UNLESS THE BUSINESS OR PROFESSION MEETS THE
5 REQUIREMENTS OF SUBSECTION (4)(B)(V);

6 (b) a plant that will create adverse impact on existing
7 state, county, or municipal services; or

8 (c) property used or employed in any industrial plant
9 that has been in operation in this state for 3 years or
10 longer.

11 (6) Class five property is taxed at 3% of its market
12 value."

13 **Section 2.** Section 15-24-1401, MCA, is amended to read:

14 "15-24-1401. Definitions. The following definitions
15 apply to 15-24-1402 unless the context requires otherwise:

16 (1) "Expansion" means that the industry has added after
17 July 1, 1987, at least ~~\$250,000~~ \$50,000 worth of qualifying
18 improvements or modernized processes to its property within
19 the same jurisdiction either in the first tax year in which
20 the benefits provided for in 15-24-1402 are to be received
21 or in the preceding tax year.

22 (2) "Industry" ~~means--a-firm-that-receives-50%-or-more~~
23 ~~of--its--gross--operating--income--from--sales--outside--the~~
24 ~~jurisdiction--approving--the--tax--benefits--described--in~~
25 ~~15-24-1402;--industry~~ includes but is not limited to a firm

1 that engages in the:

2 (a) mechanical or chemical transformation of materials
3 or substances into products in the manner defined as
4 manufacturing in the 1972 Standard Industrial Classification
5 Manual prepared by the United States office of management
6 and budget;

7 (b) extraction or harvesting of minerals, ore, or
8 forestry products; or

9 (c) processing of Montana raw materials such as
10 minerals, ore, agricultural products, and forestry products;
11 or

12 ~~(d) provision---of~~ transportation, warehousing, OR
13 distribution;--or--communications--services OF COMMERCIAL
14 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
15 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
16 STATE; OR

17 (E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
18 INCOME FROM OUT-OF-STATE SALES.

19 (3) "New" means that the industry FIRM is new to the
20 jurisdiction approving the resolution provided for in
21 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at
22 least ~~\$500,000~~ \$125,000 worth of qualifying improvements or
23 modernized processes in the jurisdiction either in the first
24 tax year in which the benefits provided for in 15-24-1402
25 are to be received or in the preceding tax year. New

1 industry does not include property treated as new industrial
2 property under 15-6-135.

3 (4) "Qualifying" means meeting all the terms,
4 conditions, and requirements for a reduction in taxable
5 value under 15-24-1401 and 15-24-1402."

6 Section 3, Section 15-24-1402, MCA, is amended to read:

7 "15-24-1402. New or expanding industry assessment.
8 (1) In the first five years after a construction permit is
9 issued, qualifying improvements or modernized processes that
10 represent new industry or expansion of an existing industry,
11 as designated in the approving resolution, shall be taxed at
12 50% of their taxable value. Each year thereafter, the
13 percentage shall be increased by equal percentages until the
14 full taxable value is attained in the 10th year. In
15 subsequent years, the property shall be taxed at 100% of its
16 taxable value.

17 (2) (a) In order for a taxpayer to receive the tax
18 benefits described in subsection (1), the governing body of
19 the affected county or the incorporated city or town must
20 have approved by separate resolution for each project,
21 following due notice as defined in 76-15-103 and a public
22 hearing, the use of the schedule provided for in subsection
23 (1) for its respective jurisdiction. The governing body may
24 not grant approval for the project until all of the
25 applicant's taxes have been paid in full. Taxes paid under

1 protest do not preclude approval.

2 (b) The governing body may end the tax benefits by
3 majority vote at any time, but the tax benefits may not be
4 denied an industrial facility that previously qualified for
5 the benefits.

6 (c) The resolution provided for in subsection (2) (a)
7 shall include a definition of the improvements or modernized
8 processes that qualify for the tax treatment that is to be
9 allowed in the taxing jurisdiction. The resolution may
10 provide that real property other than land, personal
11 property, improvements, or any combination thereof is
12 eligible for the tax benefits described in subsection (1).

13 (3) The taxpayer must apply to the county assessor on a
14 form provided by the department of revenue for the tax
15 treatment allowed under subsection (1). The application by
16 the taxpayer must first be approved by the governing body of
17 the appropriate local taxing jurisdiction, and the governing
18 body must indicate in its approval that the property of the
19 applicant qualifies for the tax treatment provided for in
20 this section. Upon receipt of the form with the approval of
21 the governing body of the affected taxing jurisdiction, the
22 assessor shall make the assessment change pursuant to this
23 section.

24 (4) The tax benefit described in subsection (1) applies
25 only to the number of all mills levied and assessed,

1 ~~including for local high school district and elementary~~
 2 ~~school district purposes and to the number of mills levied~~
 3 ~~and assessed by the governing body approving the benefit~~
 4 ~~over which the governing body has sole discretion. In no~~
 5 ~~case may the benefit described in subsection (1) apply to~~
 6 ~~levies or assessments required under Title 15, chapter 10,~~
 7 ~~20-9-331, 20-9-333, or otherwise required under state law in~~
 8 ~~the taxing units in which the qualifying property is~~
 9 ~~located."~~

10 **SECTION 3. SECTION 15-24-1402, MCA, IS AMENDED TO READ:**

11 **"15-24-1402. New or expanding industry -- assessment --**
 12 **notification.** (1) In the first 5 years after a construction
 13 permit is issued, qualifying improvements or modernized
 14 processes that represent new industry or expansion of an
 15 existing industry, as designated in the approving
 16 resolution, shall be taxed at 50% of their taxable value.
 17 Each year thereafter, the percentage shall be increased by
 18 equal percentages until the full taxable value is attained
 19 in the 10th year. In subsequent years, the property shall be
 20 taxed at 100% of its taxable value.

21 (2) (a) In order for a taxpayer to receive the tax
 22 benefits described in subsection (1), the governing body of
 23 the affected county or the incorporated city or town must
 24 have approved by separate resolution for each project,
 25 following due notice as defined in 76-15-103 and a public

1 hearing, the use of the schedule provided for in subsection
 2 (1) for its respective jurisdiction. The governing body may
 3 not grant approval for the project until all of the
 4 applicant's taxes have been paid in full. Taxes paid under
 5 protest do not preclude approval.

6 (b) The governing body may end the tax benefits by
 7 majority vote at any time, but the tax benefits may not be
 8 denied an industrial facility that previously qualified for
 9 the benefits.

10 (c) The resolution provided for in subsection (2)(a)
 11 shall include a definition of the improvements or modernized
 12 processes that qualify for the tax treatment that is to be
 13 allowed in the taxing jurisdiction. The resolution may
 14 provide that real property other than land, personal
 15 property, improvements, or any combination thereof is
 16 eligible for the tax benefits described in subsection (1).

17 (3) The taxpayer must apply to the county assessor on a
 18 form provided by the department of revenue for the tax
 19 treatment allowed under subsection (1). The application by
 20 the taxpayer must first be approved by the governing body of
 21 the appropriate local taxing jurisdiction, and the governing
 22 body must indicate in its approval that the property of the
 23 applicant qualifies for the tax treatment provided for in
 24 this section. Upon receipt of the form with the approval of
 25 the governing body of the affected taxing jurisdiction, the

1 assessor shall make the assessment change pursuant to this
2 section.

3 (4) The tax benefit described in subsection (1) applies
4 only to the number of mills levied and assessed for local
5 high school district and elementary school district purposes
6 and to the number of mills levied and assessed by the
7 governing body approving the benefit over which the
8 governing body has sole discretion. In no case may the
9 benefit described in subsection (1) apply to levies or
10 assessments required under Title 15, chapter 10, 20-9-331,
11 20-9-333, or otherwise required under state law.

12 (5) Prior to approving the resolution under this
13 section, the governing body shall notify by certified mail
14 all taxing jurisdictions affected by the tax benefit."

15 **Section 4.** Section 15-31-124, MCA, is amended to read:

16 "15-31-124. **New or expanded industry credit --**
17 **definitions.** As used in 15-31-124 through 15-31-127, the
18 following definitions apply:

- 19 (1) "Department" means the department of revenue.
20 (2) "Expanding" means to expand or diversify a present
21 operation to increase total full-time jobs by 30% or more.
22 (3) "Manufacturing" means the process of mechanical or
23 chemical transformation of materials or substances into new
24 products, as described in the standard industrial
25 classification manual of 1972 by the office of management

1 and budget of the United States.

2 (4) (a) "New corporation" means a corporation engaging
3 in manufacturing for the first time in this state, ~~and~~
4 ~~manufacturing---a---product--not--currently--manufactured--or~~
5 ~~substantially-similar-to-a-product-currently-manufactured-by~~
6 ~~that-corporation-or-any-affiliate-corporation-in-this-state;~~
7 A new corporation includes:

8 (i) a manufacturing corporation existing outside of
9 Montana that enters into manufacturing in the state;

10 (ii) a nonmanufacturing corporation within the state
11 that enters into manufacturing in the state; or

12 (iii) a corporation newly formed in Montana and entering
13 into manufacturing operations in the state.

14 (b) it A new corporation does not include:

15 (i) reorganizing-an a corporation reorganized from a
16 previously existing corporation that has been engaged in
17 manufacturing in this state; or

18 (ii) the-creation-of a corporation created as a parent,
19 subsidiary, or affiliate of an existing corporation that has
20 been engaged in manufacturing in this state of which 50% 20%
21 or more of the ownership is owned-or-controlled held by the
22 same-person,-corporation,-or-association corporation or by
23 the stockholders of the corporation."

24 NEW SECTION. SECTION 5. EFFECTIVE DATE ---RETROACTIVE
25 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

HB 0970/04

1 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
2 1-2-1997 TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990
3 1991.

-End-

HOUSE BILL NO. 970

INTRODUCED BY COCCHIARELLA, BROOKE, O'KEEFE, QUILICI,
STANG, HARRINGTON, LARSON, HOFFMAN, GRADY, THOMAS, GILBERT,
DRISCOLL, FOSTER, DAILY, KILPATRICK, SQUIRES, BENEDICT,
PAVLOVICH, T. NELSON, KIMBERLEY, REAM, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
TAX TREATMENT OF NEW AND EXPANDING INDUSTRY; REVISING THE
DEFINITION OF A NEW INDUSTRY THAT QUALIFIES AS CLASS FIVE
PROPERTY TO INCLUDE COMPANIES THAT ENGAGE IN TRANSPORTATION,
WAREHOUSING, OR DISTRIBUTION; ~~AND COMMUNICATION SERVICES;~~
~~REQUIRING THAT A NEW INDUSTRY RECEIVE 50 PERCENT OR MORE OF~~
~~ITS INCOME FROM OUT OF STATE SALES IN ORDER TO QUALIFY FOR~~
~~CLASS FIVE PROPERTY OF COMMERCIAL PRODUCTS OR MATERIALS IF~~
~~50 PERCENT OR MORE OF THE INDUSTRY'S GROSS OPERATING SALES~~
~~OR RECEIPTS ARE EARNED FROM OUTSIDE THE STATE AND BUSINESSES~~
~~THAT EARN 50 PERCENT OR MORE OF THEIR ANNUAL GROSS OPERATING~~
~~INCOME FROM OUT-OF-STATE SALES;~~ REVISING THE DEFINITION OF A
NEW OR EXPANDING INDUSTRY THAT QUALIFIES FOR CERTAIN
PROPERTY TAX BENEFITS; ~~REQUIRING THAT A QUALIFYING INDUSTRY~~
~~RECEIVE 50 PERCENT OR MORE OF ITS INCOME FROM SALES OUTSIDE~~
~~THE JURISDICTION IN WHICH IT IS LOCATED; APPLYING THE~~
~~PROPERTY TAX BENEFIT TO ALL MILLS BEVISED AGAINST THE~~
~~QUALIFYING PROPERTY;~~ REVISING THE DEFINITION OF A NEW
CORPORATION QUALIFYING FOR THE NEW OR EXPANDED INDUSTRY

CREDIT; REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED
TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF
A TAX BENEFIT; AND AMENDING SECTIONS 15-6-135, 15-24-1401,
~~15-24-1402,~~ 15-24-1402, AND 15-31-124, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND ~~A RETROACTIVE AN~~ AN APPLICABILITY
DATE."

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

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;

(b) air and water pollution control equipment as
defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the
production of gasohol during construction and for the first
3 years of its operation;

(e) all land and improvements and all personal property
owned by a research and development firm, provided that the
property is actively devoted to research and development;

1 (f) machinery and equipment used in electrolytic
2 reduction facilities.

3 (2) (a) "Air and water pollution equipment" means
4 facilities, machinery, or equipment used to reduce or
5 control water or atmospheric pollution or contamination by
6 removing, reducing, altering, disposing, or storing
7 pollutants, contaminants, wastes, or heat. The department of
8 health and environmental sciences shall determine if such
9 utilization is being made.

10 (b) The department of health and environmental
11 sciences' determination as to air and water pollution
12 equipment may be appealed to the board of health and
13 environmental sciences and may not be appealed to either a
14 county tax appeal board or the state tax appeal board.
15 However, the appraised value of the equipment as determined
16 by the department of revenue may be appealed to the county
17 tax appeal board and the state tax appeal board.

18 (3) "New industrial property" means any new industrial
19 plant, including land, buildings, machinery, and fixtures,
20 used by new industries during the first 3 years of their
21 operation. The property may not have been assessed within
22 the state of Montana prior to July 1, 1961.

23 (4) (a) "New industry" means any person, corporation,
24 firm, partnership, association, or other group that
25 establishes a new plant in Montana for the operation of a

1 ~~new industrial endeavor and that earns 50% or more of its~~
2 ~~gross operating income from out-of-state sales; as New~~
3 ~~industry--is, AS~~ distinguished from a mere expansion,
4 reorganization, or merger of an existing industry.

5 (b) New industry includes ~~only--those~~ ONLY THOSE
6 industries that:

7 (i) manufacture, mill, mine, produce, process, or
8 fabricate materials;

9 (ii) do similar work, employing capital and labor, in
10 which materials unserviceable in their natural state are
11 extracted, processed, or made fit for use or are
12 substantially altered or treated so as to create commercial
13 products or materials; or

14 (iii) engage in the mechanical or chemical
15 transformation of materials or substances into new products
16 in the manner defined as manufacturing in the 1972 1987
17 Standard Industrial Classification Manual prepared by the
18 United States office of management and budget; or

19 (iv) provide ENGAGE IN THE transportation, warehousing,
20 OR distribution--or--communications-services OF COMMERCIAL
21 PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS
22 OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE
23 STATE; OR

24 (v) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING
25 INCOME FROM OUT-OF-STATE SALES.

- 1 (5) New industrial property does not include:
- 2 (a) property used by retail or wholesale merchants,
- 3 commercial services of any type, agriculture, trades, or
- 4 professions UNLESS THE BUSINESS OR PROFESSION MEETS THE
- 5 REQUIREMENTS OF SUBSECTION (4)(B)(V);
- 6 (b) a plant that will create adverse impact on existing
- 7 state, county, or municipal services; or
- 8 (c) property used or employed in any industrial plant
- 9 that has been in operation in this state for 3 years or
- 10 longer.
- 11 (6) Class five property is taxed at 3% of its market
- 12 value."

13 **Section 2.** Section 15-24-1401, MCA, is amended to read:

14 "15-24-1401. Definitions. The following definitions

15 apply to 15-24-1402 unless the context requires otherwise:

16 (1) "Expansion" means that the industry has added after

17 July 1, 1987, at least \$250,000 \$50,000 worth of qualifying

18 improvements or modernized processes to its property within

19 the same jurisdiction either in the first tax year in which

20 the benefits provided for in 15-24-1402 are to be received

21 or in the preceding tax year.

22 (2) "Industry" ~~means--a-firm-that-receives-50%-or-more~~

23 ~~of--its--gross--operating--income--from--sales--outside--the~~

24 ~~jurisdiction--approving--the--tax--benefits--described--in~~

25 ~~15-24-1402--Industry~~ includes but is not limited to a firm

1 that engages in the:

2 (a) mechanical or chemical transformation of materials

3 or substances into products in the manner defined as

4 manufacturing in the 1972 Standard Industrial Classification

5 Manual prepared by the United States office of management

6 and budget;

7 (b) extraction or harvesting of minerals, ore, or

8 forestry products; or

9 (c) processing of Montana raw materials such as

10 minerals, ore, agricultural products, and forestry products;

11 or

12 (d) ~~provision--of~~ transportation, ~~warehousing,~~ OR

13 ~~distribution--or--communications--services~~ OF COMMERCIAL

14 ~~PRODUCTS OR MATERIALS IF 50% OR MORE OF THE INDUSTRY'S GROSS~~

15 ~~OPERATING SALES OR RECEIPTS ARE EARNED FROM OUTSIDE THE~~

16 ~~STATE; OR~~

17 (E) EARN 50% OR MORE OF THEIR ANNUAL GROSS OPERATING

18 INCOME FROM OUT-OF-STATE SALES.

19 (3) "New" means that the industry FIRM is new to the

20 jurisdiction approving the resolution provided for in

21 15-24-1402~~(3)~~(2) and has invested after July 1, 1987, at

22 least \$500,000 \$125,000 worth of qualifying improvements or

23 modernized processes in the jurisdiction either in the first

24 tax year in which the benefits provided for in 15-24-1402

25 are to be received or in the preceding tax year. New

1 industry does not include property treated as new industrial
2 property under 15-6-135.

3 (4) "Qualifying" means meeting all the terms,
4 conditions, and requirements for a reduction in taxable
5 value under 15-24-1401 and 15-24-1402."

6 Section 3, Section 15-24-1402, MCA, is amended to read:

7 "15-24-1402. New or expanding industry assessment.
8 (1) In the first 5 years after a construction permit is
9 issued, qualifying improvements or modernized processes that
10 represent new industry or expansion of an existing industry,
11 as designated in the approving resolution, shall be taxed at
12 50% of their taxable value. Each year thereafter, the
13 percentage shall be increased by equal percentages until the
14 full taxable value is attained in the 10th year. In
15 subsequent years, the property shall be taxed at 100% of its
16 taxable value.

17 (2) (a) In order for a taxpayer to receive the tax
18 benefits described in subsection (1), the governing body of
19 the affected county or the incorporated city or town must
20 have approved by separate resolution for each project,
21 following due notice as defined in 76-15-103 and a public
22 hearing, the use of the schedule provided for in subsection
23 (1) for its respective jurisdiction. The governing body may
24 not grant approval for the project until all of the
25 applicant's taxes have been paid in full. Taxes paid under

1 protest do not preclude approval.

2 (b) The governing body may end the tax benefits by
3 majority vote at any time, but the tax benefits may not be
4 denied an industrial facility that previously qualified for
5 the benefits.

6 (c) The resolution provided for in subsection (2) (a)
7 shall include a definition of the improvements or modernized
8 processes that qualify for the tax treatment that is to be
9 allowed in the taxing jurisdiction. The resolution may
10 provide that real property other than land, personal
11 property, improvements, or any combination thereof is
12 eligible for the tax benefits described in subsection (1).

13 (3) The taxpayer must apply to the county assessor on a
14 form provided by the department of revenue for the tax
15 treatment allowed under subsection (1). The application by
16 the taxpayer must first be approved by the governing body of
17 the appropriate local taxing jurisdiction, and the governing
18 body must indicate in its approval that the property of the
19 applicant qualifies for the tax treatment provided for in
20 this section. Upon receipt of the form with the approval of
21 the governing body of the affected taxing jurisdiction, the
22 assessor shall make the assessment change pursuant to this
23 section.

24 (4) The tax benefit described in subsection (1) applies
25 only to the number of all mills levied and assessed,

1 ~~including for local high school district and elementary~~
 2 ~~school district purposes and to the number of mills levied~~
 3 ~~and assessed by the governing body approving the benefit~~
 4 ~~over which the governing body has sole discretion. In no~~
 5 ~~case may the benefit described in subsection (1) apply to~~
 6 ~~levies or assessments required under Title 15, Chapter 10,~~
 7 ~~20-9-331, 20-9-333, or otherwise required under state law in~~
 8 ~~the taxing units in which the qualifying property is~~
 9 ~~located."~~

10 **SECTION 3. SECTION 15-24-1402, MCA, IS AMENDED TO READ:**

11 **"15-24-1402. New or expanding industry -- assessment --**
 12 **notification.** (1) In the first 5 years after a construction
 13 permit is issued, qualifying improvements or modernized
 14 processes that represent new industry or expansion of an
 15 existing industry, as designated in the approving
 16 resolution, shall be taxed at 50% of their taxable value.
 17 Each year thereafter, the percentage shall be increased by
 18 equal percentages until the full taxable value is attained
 19 in the 10th year. In subsequent years, the property shall be
 20 taxed at 100% of its taxable value.

21 (2) (a) In order for a taxpayer to receive the tax
 22 benefits described in subsection (1), the governing body of
 23 the affected county or the incorporated city or town must
 24 have approved by separate resolution for each project,
 25 following due notice as defined in 76-15-103 and a public

1 hearing, the use of the schedule provided for in subsection
 2 (1) for its respective jurisdiction. The governing body may
 3 not grant approval for the project until all of the
 4 applicant's taxes have been paid in full. Taxes paid under
 5 protest do not preclude approval.

6 (b) The governing body may end the tax benefits by
 7 majority vote at any time, but the tax benefits may not be
 8 denied an industrial facility that previously qualified for
 9 the benefits.

10 (c) The resolution provided for in subsection (2)(a)
 11 shall include a definition of the improvements or modernized
 12 processes that qualify for the tax treatment that is to be
 13 allowed in the taxing jurisdiction. The resolution may
 14 provide that real property other than land, personal
 15 property, improvements, or any combination thereof is
 16 eligible for the tax benefits described in subsection (1).

17 (3) The taxpayer must apply to the county assessor on a
 18 form provided by the department of revenue for the tax
 19 treatment allowed under subsection (1). The application by
 20 the taxpayer must first be approved by the governing body of
 21 the appropriate local taxing jurisdiction, and the governing
 22 body must indicate in its approval that the property of the
 23 applicant qualifies for the tax treatment provided for in
 24 this section. Upon receipt of the form with the approval of
 25 the governing body of the affected taxing jurisdiction, the

1 assessor shall make the assessment change pursuant to this
2 section.

3 (4) The tax benefit described in subsection (1) applies
4 only to the number of mills levied and assessed for local
5 high school district and elementary school district purposes
6 and to the number of mills levied and assessed by the
7 governing body approving the benefit over which the
8 governing body has sole discretion. In no case may the
9 benefit described in subsection (1) apply to levies or
10 assessments required under Title 15, chapter 10, 20-9-331,
11 20-9-333, or otherwise required under state law.

12 (5) Prior to approving the resolution under this
13 section, the governing body shall notify by certified mail
14 all taxing jurisdictions affected by the tax benefit."

15 **Section 4.** Section 15-31-124, MCA, is amended to read:

16 "15-31-124. New or expanded industry credit --
17 definitions. As used in 15-31-124 through 15-31-127, the
18 following definitions apply:

19 (1) "Department" means the department of revenue.

20 (2) "Expanding" means to expand or diversify a present
21 operation to increase total full-time jobs by 30% or more.

22 (3) "Manufacturing" means the process of mechanical or
23 chemical transformation of materials or substances into new
24 products, as described in the standard industrial
25 classification manual of 1972 by the office of management

1 and budget of the United States.

2 (4) (a) "New corporation" means a corporation engaging
3 in manufacturing for the first time in this state, and
4 ~~manufacturing---a---product---not---currently---manufactured---or~~
5 ~~substantially-similar-to-a-product-currently-manufactured-by~~
6 ~~that-corporation-or-any-affiliate-corporation-in-this-state;~~
7 A new corporation includes:

8 (i) a manufacturing corporation existing outside of
9 Montana that enters into manufacturing in the state;

10 (ii) a nonmanufacturing corporation within the state
11 that enters into manufacturing in the state; or

12 (iii) a corporation newly formed in Montana and entering
13 into manufacturing operations in the state.

14 (b) it A new corporation does not include:

15 (i) reorganizing-an a corporation reorganized from a
16 previously existing corporation that has been engaged in
17 manufacturing in this state; or

18 (ii) the-creation-of a corporation created as a parent,
19 subsidiary, or affiliate of an existing corporation that has
20 been engaged in manufacturing in this state of which 50% 20%
21 or more of the ownership is owned-or-controlled held by the
22 same-person,-corporation,-or-association corporation or by
23 the stockholders of the corporation."

24 NEW SECTION. SECTION 5. EFFECTIVE DATE ---RETROACTIVE
25 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

HB 0970/04

1 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
2 1-2-1997 TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990
3 1991.

-End-