MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 8, 1983

The twenty-first meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 252: The chair was turned over to Senator McCallum. Senator Pat Goodover, Senate District 22, said the bill was introduced at the request of the Economic Growth Council of Great Falls. The bill is a reenactment of the investment tax credit two years ago which had a sunset provision. This reinstates the credit without the sunset provision.

PROPONENTS

John Lopach, executive director of the Economic Growth Council of Great Falls, said that with the proposed amendments, they recommend extending the investment tax credit to all businesses rather than just to subchapter S corporations and that the credit be made applicable on December 31, 1982, without sunset provisions. The bill (1) protects existing investers by renewing the credit and (2) helps attract new investment. Mr. Lopach provided statistical information in his handout materials (Exhibit A) regarding limitations on the investment tax credit as well as some sample computations showing a net gain in revenue to the state of Montana after the credit has been taken. Mr. Lopach's Exhibit 7 was based on a situation where a Washington firm wanted to buy a Safeway building in Great Falls for avionics. We should put enough incentive on the books that we can begin hearing people knocking at the door and capture the states which have many more incentives than we do and which have attracted handsome industries.

Senator Goodover suggested two amendments:

Page 1, line 23.
Following: "amended"
Insert: "providing the qualifying section 38 property is placed and used within or principally within Montana"

Page 1, line 20.
Following "by"
Insert: "15-30-103,"

This bill applies to all businesses, including those doing business as sole proprietorships or partnerships.

IRS Form 3468 could be used for computing the investment credit for Montana. A third amendment, to correct a typographical error was also recommended:

Page 3, line 11.
Following: "15-31-123,"
Strike: "(6)"
Insert: "(5)"

This will renumber the paragraphs in the proper sequence.

F. H. "Buck" Boles, representing the Montana Chamber of Commerce, said that originally, the Chamber of Commerce had worked toward passage of similar legislation in 1977. They support expanded use of this incentive tax credit because it is important to the industries and economics in Montana.

Dave Goss, representing the Billings Area Chamber of Commerce, also supported the bill. Montana is competing with her surrounding states. Montanans need the credit to help tip the scales in their favor in attracting business. It is important to keep in mind that because businesses are getting the credit, they are making investments in Montana property.

Jerry Raunig, representing the Montana Auto Dealers Association, also supported SB 252.

<u>OPPONENTS</u>

Ellen Feaver, director of the Department of Revenue, opposed the bill based on the fiscal note. The credit would more than wipe out the corporation license tax. Last year, the corporation license tax provided $44 million in revenue. If SB 252 is amended, it could cut the receipts in half. It is more than just a reenactment of the prior law. The impact of the previous bill was $11 million a year. If that bill continued, the impact would be $32 million a year because of inflation, carryovers, and so on. No investment tax credit was considered when the budgets were prepared.

The Department of Revenue selected six returns from the 1982 filers. Four corporations would have been able to claim $80 million in investment tax credit. If you restrict the bill to credits only in Montana, then $357,000 in investment tax credit would have been granted. One corporation included heavy investment in Montana where corporation was abolishing hundreds of jobs. Ms. Feaver questioned whether investment in equipment spurred economic growth. There is no net gain involved in Mr. Lopach's calculations. Some of the 10 western states have greater tax incentives, but they do not correlate to economic growth. The government intrastructure creates the adequate climate.

If you do not reenact the small business investment credit, she said, there will be controversy over what happens to the existing law. Please address the investment tax credit in some fashion, she asked.

Questions from the committee were called for.

Senator Crippen objected to the form of the fiscal note. Ms. Feaver said that where no absolute statistics were available, they provided a narrative that explained various caveats. She thought we could possibly get a revised fiscal note if the committee desired.

John Lopach, in response to Ms. Feaver's comments, imagined there were some forms of investment and some forms of equipment that go into a retail store that are upgrading--a refrigeration system, for example--and they are eligible. No new jobs have been created. It is an investment that the business would have made whether or not the investment tax credit was on the books. He questioned that. That was his purpose in illustrating Exhibit 6 of his handout, he said. Does every businessman make the calculations to decide to buy equipment? Only the good businessman does it, he said, and he is the one who stays in business. The effect of this credit is not as large as the federal investment tax credit. SB 252 says "we want you here in Montana, and we want to keep your business here, too."

Senator Crippen addressed Mr. Lopach: Ms. Feaver said that tax credits don't necessarily bring in new business. In one of Maxine Johnson's polls, she came up with the same conclusion. I agree with that. Do you have any evidence to counter that? Have you seen the influx of business because of the investment tax credit we passed last session? Mr. Lopach replied negatively. The reason for that, he said, is that we don't have enough tax credits and other incentives on the books. In Montana, we operate against a lot of negatives. We have higher transportation costs to metropolitan centers, skilled labor, higher electrical costs, labor costs and cost of living. The problem we have is that the laws on the books now are overrestrictive. These laws send signals to industry that we do not want more industry.

Senator Crippen asked for examples of this from other states.

Mr. Lopach said that the costs are added and the result is a negative or positive number. Subtract the incentives offered by the state and county and then calculate the profits. The firm's accountant shows these figures to the manager. If you bring business in by offering incentives, the taxes paid on the wages of employees hired will bring in more money than the incentive will take away.

Ms. Feaver stated that there was one bill in the House and another to be introduced in the House that relate to the investment tax credit.

Senator Towe asked Mr. Lopach if he could provide us with alternative revenue in the budget to make up for this credit. Mr. Lopach responded that taxes collected (income taxes on wages, etc.) will show a net increase, not a loss, in revenue.

The committee discussed getting a revised fiscal note but did not specifically request one.

Senator Goodover said that when they passed the investment tax credit amendment two years ago, it was to revert back to 20% at sunset.

The hearing was closed on SB 252.

CONSIDERATION OF SENATE BILL 241: Senator Gary Lee, Senate District 17, said this bill addresses the 1% license tax credit allowed to corporations on total new wages (15-31-125, MCA). The bulk of amendments change "corporation" to "manufacturer" so that partnerships will be eligible for the credit, not just corporations.

PROPONENTS

John Lopach, Economic Growth Council of Great Falls, said the bill limits the credit to manufacturers. It grants a carryover of up to 10 taxable years where carryovers were not allowed before. He pointed out the language on page 6, lines 17-19, and page 14, lines 6-8, where, he said, administrative rules have gone beyond the law in restricting us. The rules say that the product manufactured cannot be a product currently produced in the state. Do people really want jobs in Montana with this kind of restrictiveness? At page 6, line 22, the period of eligibility for the credit has been liberalized. The suggested change says 3 years from the start of manufacturing rather than 3 years from the initial act of doing business in Montana. Pages 7-12 define "manufacturing." On pages 10-12, we requested that the ban on certain types of businesses be removed. If new jobs are created, the credit should be granted to all. Section 14 defines "new manufacturer."

F. H. "Buck" Boles, representing the Montana Chamber of Commerce, said they were involved in this about 8 years ago. There was no incentive for expansion of business in Montana. The provision for credit in industry was included to let businesses already in Montana enjoy growth. He noted that a manufacturer does not get the credit unless it creates jobs. They have attempted to tie this directly to the creation of jobs.

Darryl Lee, Butte Local Development Corporation, mentioned a report on TV on February 7, 1983, about the business climate for the United States, particularly the Rocky Mountain region. Montana has taken a 3-point jump, from 28th place to 25th. Why? When compared with our neighbors, Nebraska was ranked 4th and others were ranked 11th to 15th. The business climate is determined by many things. One of their concerns, he said, was that mining be included in the definition of "manufacturing" or classified with the other activities listed on page 9 of the bill.

Mr. Lopach said the definition was taken from the introduction of the 1972 Standard Industrial Classification Manual. A copy of the table of contents of the 1972 Standard Industrial Classification Manual is included with Mr. Lopach's handout attached as Exhibit B.

OPPONENTS

There were no opponents to SB 241.

Questions from the committee were called for.

Senator Towe wondered if the legislature could change administrative rules by statute. Cort Harrington, Jr., the committee's staff attorney, said this bill directs the Department of Revenue to change them by going through the standard notice procedures and holding a hearing on the rule changes.

Senator Lee said it was the prerogative of the legislature to instruct a state agency to amend its rules.

Senator Towe agreed with most of what Senator Lee presented but said suppose the Department of Revenue says what we are directing them to do is not a good idea. Senator Lee responded that unless the law precluded doing this, in a judicial sense it is just as commanding as if we did it by resolution and the department said no.

Senator Elliott asked Ms. Feaver how much credit was being claimed under existing law under section 15-31-125. Ms. Feaver responded that the claims had been quite small.

Senator Norman asked if a corporate lawyer in Chicago would make inquiry of the Department of Revenue of the substance of these laws in Montana, asking specifically what investment credits there were. Ms. Feaver said she gets 5-10 letters a month of this nature.

Senator Norman asked if there were occasions when businesses are set up in Montana and now apply for the tax credit or are unaware of the tax credit. She replied that some people were not aware that they could take the tax credit.

In response to a question from Senator Lynch, Senator Lee said he would not object to the committee's adding mining as one of the activities eligible for the credit under this bill.

Senator Lynch asked if anything in the present law prohibited a business opening for 2 1/2 years instead of 3 years. Mr. Lopach responded that nothing in the codes would restrict that, but when we get into regulations and re-opening a business, we have to be careful about stipulations that the credit does not cover employees who were on the employer's job roll within 5 years of the credit being claimed.

Senator Lynch said a manufacturer should not have to hire new employees rather than rehiring old employees. Mr. Lopach responded that a manufacturer cannot ask for credit for an employee moving from one position to another within the same company.

Senator Towe suggested adopting the new definitions and putting in the new amendatory statutory material and adopting a very explicit statement of intent.

Senator Lee felt it was appropriate that the legislature amend the rules.

Senator Towe felt that, substantively, the scope of who could claim the credit was narrowed by using the term "manufacturer" (page 12, line 6). Mr. Lopach said that on page 4 of the bill, the definition of "manufacturer" is given with reference to the 1972 Standard Industrial Classification Manual, so there is no ambiguity. The definition on page 12 conforms to the language on page 4.

The hearing was closed on SB 241.

CONSIDERATION OF SENATE BILL 343: Senator Pat Goodover, Senate District 22, said SB 343 is related to SB 252 and SB 241, which were just heard, and was drawn through the direction of John Lopach. See Exhibit a.

PROPONENTS

John Lopach said SB 343 proposes amendment to 15-6-135, MCA (class five property tax). The amendments on page 3, lines 22-23 remove the requirement that the Department of Revenue ascertain "adverse impact" of a new industry and hold hearings if the new industry employs more than 100. (These responsibilities are transferred to the county commissioners.)

The amendments on page 5, lines 13-25, transfer to the county commissioners the right to require prepayment of up to 3 years' taxes.

The amendments on page 7, lines 12-23, require that the Department of Revenue treat jobs created by an expansion exactly as it does those created by a new industry.

The amendments on page 9, line 18, to page 10, line 3, allow a new industry to apply to the department director for alternative treatment if the new industry ceases to operate either temporarily or permanently.

The amendment on page 10, lines 10-18, removes the requirement of public hearings on the question of adverse impact.

Between the lines, Mr. Lopach said, we want jobs.

Darryl Lee, Butte Local Development Corporation, also supported the bill.

OPPONENTS

Ellen Feaver, director of the Department of Revenue, said this bill would take away the voice from local governments and say that no matter what the adverse impact may be, you may not reverse the 3% tax relief. You cannot require prepayment of from 3% to 16%. If a new mine has three of its new earth movers repaired, it doesn't necessarily create new jobs. Utilities, railroads, and airlines would all benefit from the bill.

It would be expensive to administer these rules, she said. We would have to set up new books for each new industry as it expands.

Questions from the committee were called for.

Senator Towe noted there was no fiscal note with the bill. He asked Mr. Lopach if it was his intent that any corporations that go through mergers should also qualify as new industries (page 3, line 3). Mr. Lopach responded that the intention is to offer an incentive for net new jobs. Senator Towe thought "net new jobs" should be defined in the bill. Mr. Lopach said he couldn't come up with a better formula than that proposed in SB 241--30% or 5 new jobs.

Senator Towe also questioned section 3 beginning on page 5 regarding prepayment of taxes by a facility that will create substantial adverse impact on existing services and what would happen if a company was unable later on to repay any taxes due.

Senator Goodover said that with additional work with Mr. Lopach in the areas of concern, we can come up with a working bill for creation of new jobs in Montana.

The hearing was closed on SB 343.

Senator McCallum turned the chair back to Senator Goodover.

CONSIDERATION OF SENATE BILL 172 (CONTINUED): Senator Eck submitted amendments that Cort had prepared for her (Exhibit D). Senator McCallum wondered if railroad retirement would be excluded under this bill. In the third amendment on Exhibit D, she thought it would be fairer if we used just "gross income" in the columnar heading rather than "adjusted gross income."

Senator Lynch said he had visited with Mr. Sheehy, who was representing the retired federal employees. Senator Lynch wondered if all retirees would get the same exemptions. Senator Eck pointed out that this group would be getting less exemption than other retirees. She said a similar bill (HB 297) will provide a standard $5,000 exemption, and anything over that will be taxed. The net effect of that might be more income to the state.

Senator Towe asked if she realized that SB 172 would eliminate a $360 exemption for those receiving over $16,000.

Senator Gage asked if, in subsection (d), line 11, page 2, we were talking about the employer's or the employee's share of benefits.

Senator Towe said there is a statute that allows you to exclude certain employee contributions. Senator Gage asked if that applied to all cases.

Senator Eck moved that the amendments to SB 172, with "adjusted" stricken in the columnar heading in amendment #3, be adopted. (No second was made.)

Senator Elliott commented that "gross income" needed to be defined. (See 15-30-101, MCA.)

The meeting adjourned at 9:55 a.m.

Pat M Goodover

Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 2/8 /83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE February 8, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
JOHN LOPACH	ECONOMIC GROWTH COUNCIL OF GREAT FALLS	252 241 343	✓	
Ellen Feaver	Dept of Revenue	252 343		✓ ✓
Jerry Loving	Mont Auto Dealers Assoc	SB 252	✓	
Dave Goss	Billings Chamber of Commerce	SB 241 SB 252		
William Sherwood	Butte Local Development Corp	SB 241	✓	
Daryl A. Lee		SB 241	✓	
GL Buckbols	Montana Chamber of Commerce	SB 252 SB 241	✓	

(Please leave prepared statement with Secretary)

NAME: JOHN LOPACH DATE: 2/8/83

ADDRESS: 2208 CHERRY, GREAT FALLS

PHONE: HOME: 452-3436 WORK: 761-5036

REPRESENTING WHOM? ECONOMIC GROWTH COUNCIL OF GREAT FALLS

APPEARING ON WHICH PROPOSAL: SB 252, 241, 343

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION COMMITTEE
EXHIBIT A(1)
FEBRUARY 8, 1983
SB 252

S.B. 252

1. Page 3, line 11.
Following: "15-31-123"
Strike: "(6)"
Insert: "(5)

Senate Taxation Comm.
Exhibit A(2)
February 8, 1983
SB 252

ECONOMIC GROWTH COUNCIL

GREAT FALLS

MONTANA

P.O. BOX 1273 • GREAT FALLS, MT 59403
(406) 761-5036

SERVING GREAT FALLS AND
CASCADE COUNTY MONTANA

John Kopach

February 7, 1983

To: Taxation Committee
Montana Senate

Re: SB-252 <u>Investment Tax Credit</u>

The investment tax credit is a critical component of a philosophy designed to stimulate economic development in Montana. Far from being a "subsidy", it is in actuality an incentive for investment in Montana. Lower tax liabilities will improve business profitability, opening new opportunities for employment, and aid in providing the required rate of return to warrant the business investment.

The investment tax credit is not a loss to the state except in that it does reduce corporate and personal tax revenues. But these "losses" are more than offset by increased revenues in other forms. The net result is higher total income for Montanans, Montana businesses, and of course state revenue.

Presented in the attachments are data relative to the investment tax credit computations which show only a modest (less than 3%) credit on the total actual investment. Consider that, except for the carry back/carry forward provisions, the I.T.C. is a one time credit, but the equipment itself continues to produce revenue for the state for a number of years.

Exhibits are presented to show a comprehensive example of how the I.T.C. might be considered in light of investment decisions faced by Montana businesses. One must consider the fiduciary responsibilities of business managers to maximize the value of the business. Projects or investments which do not measure up <u>will</u> be discarded. The I.T.C. can make a difference in these analyses and spell the difference between economic stagnation or growth for Montana.

Finally, an analysis of the net effect of taxes and credits for the comprehensive example is presented. Given that this analysis does not consider increased taxes generated by the "turnover" of additional incomes or profits and yet shows a substantial benefit to the state, there is little question that the investment tax credit is good for Montana and an important facet of fiscal policy geared to benefit Montanans.

INVESTMENT TAX CREDIT

1. Federal Limitations

100% of Sect. 38 property, if 5 year or greater useful life.
60% of Sect. 38 property, if 3-4 year useful life.

Exhibit 1

Sample computation:

	Qualified Property	Useful Life[1]	Adjusted Cost Basis	Percent	Qualified Investment
1.	Office Equip.	5	$10,000	100	$10,000
2.	Factory Machinery	5	30,000	100	30,000
3.	Truck (3/4 T.)	3	18,000	60	10,800
	Total Investment		$58,000		
	Total Qualified Investment				$50,800
					X 10%
	Total Investment Tax Credit Allowed				$ 5,080

2. State Limitations

30% of the Investment tax credit claimed on Federal return which is applicable to investments made within Montana.

Exhibit 2

Sample State computation.[2]

$5,080 Investment credit taken on Federal returns.
X 30%
$1,524 Investment tax credits allowed against Montana Corporate Tax.

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[1] Pursuant to Accelerated Cost Recovery System asset classes.

[2] Assumes 100% of the investment is made within the state.

Exhibit 3

Sample state computation:

Using IRS form 3468, identify investments made within Montana.[3] Refer to Exhibit 1. Assume that item 1-Office equipment, and item 3-Truck, are applicable to Montana. (Branch office operation)

	Qualified Property	Useful Life	Adjusted Cost Basis	Percent	Qualified Investment
1.	Office Equip.	5	$10,000	100	$10,000
3.	Truck	3	18,000	60	10,800
	Total Investment (MT)		$28,000		
	Portion of Qualified Investment (MT)				$20,800
					X 10%
	Base for computation of Montana I.T.C.				$ 2,080
					X 30%
	Investment tax credit allowed in Montana				$ 624

Exhibit 4

Probable effects on Montana Property Tax.[4]

Property	Asset Class	Cost Basis	Assessed Value Percentage	Taxable Value as % of Assessed Value	Taxable Value
Office Equip.	9	$10,000	.92[5]	.13	$1,196
Truck	9	18,000	1.0[6]	.13	2,340
Factory Mach.	8	30,000	.92[5]	.11	3,036
					$6,572
				Mill levy (Cascade County)	X (358.45 / 1,000)
				New property taxes generated	$2,356
				Montana I.T.C. taken on property	(1,524)
				Net gain(loss) to State revenue	$ 832

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[3] Perhaps a Montana I.T.C. form could be developed to reduce administrative costs of collection.

[4] New taxes that might be generated from increased business profitability or employment are not considered in this scenario.

[5] Assumes equipment placed in service during 1982 (per Cascade Co. Assessor).

[6] Assumes truck was pruchased at a price equal to NADA book value.

Investment Tax Credit

Estimate of 1982 I.T.C. Impact

The following data was obtained from conversations with Mr. John Clark and Mr. Dan Bucks of the Montana Department of Revenue. Statistical inferences have been made appropriately.

1. $10.8 mm I.T.C. taken in 1982, at 30% of Federal I.T.C.
2. 36.0 mm I.T.C. taken on Federal returns, at 10% of Sect. 38 property.
3. 360. mm Total investment in qualified Sect. 38 property.[7]

Exhibit 5

Impact on State revenue.[8]

$360 mm Total investment (Book value of Class 8 equipment)
X.92 assessed value percentage
331.2 mm
X .11 Class 8 taxable value as % of assessed value.
36.43 mm
X(358.45)
1,000 Mill levy (Cascade Coutny)
13.06 mm Property Tax Revenue
(10.80)mm I.T.C.taken on investment
$2.26 mm Net revenue gain

[7] It is assumed that the actual total investment may be higher, since land and buildings are excluded from qualifying under Sect. 38.

[8] Does not consider possible gains from Class 4 property taxes or gains from personal income taxes due to increased employment, or the gain from increased unemployment taxes and reduced unemployment compensation.

Investment Tax Credit

The investment tax credits can affect investment decisions made by businesses. To illustrate how a fairly simple, but typical project would be analyzed the exhibit below is presented.

<u>Exhibit 6</u>

Worksheet for Project Analysis

		Amount Before Tax (1)	Amount After Tax (2)	Year Event Occurs (3)	Present Value Factor @ 14% (4)	Present Value (5)
	Net out flows at time investment is made t = Ø					
1.	Cost of New Equipment	$12,000	$12,000	Ø	1.0	$12,000
2.	Federal I.T.C.	(1,200)	(1,200)	Ø	1.0	(1,200)
3.	State I.T.C.	(360)	(360)	Ø	1.0	(360)
4.	Total initial outflows (Present value of costs)					$10,440
	Net inflows over the projects life t = 1-10					
5.	Decrease in costs	2,750	1,485	1-10	5.2161	7,746
6.	Depreciation (new)	1,000	460	1-10	5.2161	2,399
7.	Estimated Salvage Value	2,000	2,000	10	.2697	5[illegible]
8.	Present value of inflows					$10,68[illegible]

Net Present Value = Present value of inflows—present value of costs

NPV = $10,684 - $10,440
NPV = <u>$244</u>

<u>Assumption</u> - Firm will make the investment

If the State I.T.C. is removed,

NPV = $10,684 - $10,800
NPV = (<u>$166</u>)

<u>Assumption</u> - Firm will <u>not</u> make the investment.

Investment Tax Credit

Exhibit 7

Comprehensive example.

Assume the following facts:

1. New manufacturer (electronics)
2. Purchase existing building and undeveloped lot ($800,000)
3. Total employment opportunity for 200 persons
4. Average wage $14,000; (3 dependents per employee)
5. Additional investment to:

a.	refurbish building	$100,000
b.	purchase office equipment	100,000
c.	purchase machinery and equipment	595,000
d.	pave lot	5,000
	Total additional investment	$800,000
	Purchase land and building	800,000
	Total investment (MT)	$1,600,000

I.T.C. computation

	Qualified Property	Useful Life	Adjusted Cost Basis	Percent	Qualified Investment
1.	Office Equipment	5	$100,000	100	$100,000
2.	Factory Equipment	5	595,000	100	595,000
	Total Qualified Investment				$695,000
					X .10
	Federal I.T.C. Allowed				$ 69,500
					X .30
	Montana I.T.C. Allowed				$ 20,850

Property Tax Computation

Property	Asset Class	Cost Basis	Assessed Value Percentage	Taxable Value as % of Assessed Value	Taxable Value
Building Improvements[9]	4	$100,000	.70	.04275[10]	$ 2,993
Office Equip.	9	100,000	.92	.13	11,960
Factory Equipment	8	595,000	.92	.11	60,214
Paved Lot	4	5,000	.70	.04275[10]	150
					$75,317
					x (358.45) / 1,000
New property tax collected					$26,997

[9] Assumes increased taxes only on value added by improvements.

[10] Assumes the 50% Abatement of Montana property taxes is taken on Class 4 property.

Investment Tax Credit

Personal Income Tax Computation

200	New Employees
x $264	(3 dependents, semi-monthly payroll--amount is annual figure)
$52,800	State Income Taxes Collected.

1% of Wages Tax Credit Computation

$14,000	annual salary average.
X 200	employees
$2,800,000	Annual Payroll
X .01	
$ 28,000	1% of Wages Tax Credit.

Unemployment Tax Computation

Assume firm achieves the level of profitability equal to other industry participants (Standard Industrial Classification #3573, Manufacturers - Electronic Computing Equipment)

Gross Revenue estimate	$9.44 mm
% profit before tax	.058
	$547,520
Mt. Corporation License Tax Rate	x .0675
Mt. Corporation License Tax Revenue	$ 36,958

Net Effect of Taxes and Credits

Montana Corporation License Tax Assessed	$ 36,958
- I.T.C. Taken	(20,850)
Property Taxes Assessed	26,997
Personal Income Tax Assessed	52,800
- 1% of Wages Credit	(28,000)
Unemployment Taxes Assessed	51,200
Net Revenue to Montana	$119,105

STATE OF MONTANA

REQUEST NO. 208-83

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

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-27-83

Senate BILL NO. 252

INTRODUCED BY Gordon Fabrega

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INVESTMENT CREDIT AGAINST THE CORPORATE LICENSE TAX; AMENDING SECTION 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~~ businesses to take an investment credit as provided for in subsection ~~(3)~~ <u>(2)</u> and to stimulate capital investment by the ~~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.~~

~~(3)~~<u>(2)</u> 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.

~~(4)~~<u>(3)</u> The amount of the credit allowed for the taxable year is 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 ~~(6)~~ <u>(5)</u>; and

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

~~(5)~~<u>(4)</u> Notwithstanding the provisions of subsection ~~(4)~~ <u>(3)</u>, 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.~~

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

~~(7)~~<u>(6)</u> The investment credit allowed by this section is subject to recapture as provided for in section 47 of the

INTRODUCED BILL

SB 252

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

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

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

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

-End-

[¶ 67] Check List XIII—Investment Tax Credit—Sec. 38 Property

Bottles, reusable (¶ 539Z.44)
Elevators (¶ 539C)
Escalators (¶ 539C)
Fences for livestock (¶ 539Z.25)
Horticultural structures, single purpose (¶ 539Z.011)
Leased equipment (¶ 539Z.017)
Livestock (other than horses) (¶ 539Z.018)
Livestock structures, single purpose (¶ 539Z.011)
Property used for lodging (¶ 539)
 Coin-operated vending machines, washers and dryers (¶ 539Z.012)
 Mobile homes (more than 50% transient use) (¶ 539Z.48)
Property used outside United States
 Aircraft (¶ 539C and 539Z.65)
 Communication satellites (¶ 539Z.012)
 Motor vehicles (¶ 539C)
 Offshore drilling equipment (¶ 539C)
 Property used in U. S. possessions (¶ 539C)
 Shipping containers (¶ 539C)
 Ships (marine vessels) (¶ 539C and 539Z.4556)
 Submarine telephone cables (¶ 539Z.012)
Public utility property
 Parts and components (¶ 539Z.30)
 Steam-generating electric power plant (¶ 539Z.30)
 Rehabilitation expenditures (¶ 539Z.01, 539Z.0113)
 Historic structures, certified (¶ 539Z.0113)
Research and storage facilities
 Corn cribs (¶ 539Z.24)
 Dry-kiln and control room structures (¶ 539Z.45)
 Gas storage tanks (¶ 539C)
 Grain storage bins (¶ 539C and 539Z.27)
 Greenhouses (¶ 539Z.011)
 Liquefied petroleum gas equipment (¶ 539Z.225)
 Milk storage refrigerator and freezer structures (¶ 539Z.425)
 Mushroom houses (¶ 539Z.011)
 Oil storage tanks (¶ 539C)
 Oil storage terminal facility's fuel oil blending property (¶ 539Z.2843)
 Potato storage facility (¶ 539Z.295)
 Refrigerated portion of building (¶ 539Z.195 and 539Z.25)
 Reservoir for use with electric generating plant (¶ 539Z.30)
 Silos (¶ 539Z.25)
 Storage facility for grain or other commodities (¶ 539Z.27)
Tangible personal property
 Air-conditioning and humidity control systems required for proper operation of other machinery (¶ 539Z.103)
 Automatic vending machines (¶ 539C)
 Automotive test tracks and facilities (¶ 539Z.13)

Tangible personal property—continued
 Bank vault doors (¶ 539Z.15)
 Boiler facility (¶ 539Z.195)
 Commuter highway vehicle for transporting employees (¶ 537H.0255)
 Control room structures (¶ 539Z.45)
 Display racks (¶ 539C)
 Display shelves (¶ 539C)
 Drive-up tellers' windows in banks (¶ 539Z.15)
 Dry-kiln structures (¶ 539Z.45)
 Electroplates (¶ 539Z.296)
 Fire extinguishers (¶ 539Z.103)
 Floating docks (¶ 539Z.229)
 Gasoline pumps (¶ 539C)
 Golf course watering system, including pump and portable sprinklers (¶ 539Z.267 and 539Z.68)
 Grocery counters (¶ 539C)
 Hydraulic car lifts (¶ 539C)
 Laboratory facilities (¶ 539Z.195)
 Mechanized conveyors (¶ 539Z.55)
 Mushroom beds, conveyors, machinery and pipes (¶ 539Z.28)
 Neon and other signs (¶ 539C)
 Night depository facilities in banks (¶ 539Z.15)
 Office equipment (¶ 539C)
 Offset-lithography films (¶ 539Z.296)
 Piping machinery (¶ 539Z.55)
 Power machinery (¶ 539Z.55)
 Printing presses (¶ 539C)
 Production machinery (¶ 539C)
 Propane gas storage tanks, water heaters and water softeners (¶ 539Z.278)
 Record vault doors (¶ 539Z.15)
 Refrigeration equipment (¶ 539Z.425)
 Refrigerators (¶ 539C)
 Reusable containers (¶ 539Z.44)
 Testing equipment (¶ 539C)
 Transportation equipment (¶ 539C)
 Vending machines (¶ 539Z.278)
 Voice communication systems (¶ 539Z.55)
 Walk-up tellers' windows in banks (¶ 539Z.15)
 Wall-to-wall carpeting (¶ 539Z.2798)
 Water pumps (¶ 539Z.55)
Tangible property other than personal
 Blast furnaces (¶ 539C)
 Broadcasting towers (¶ 539C)
 Burner and preheater structures—cement kiln (¶ 539Z.195)
 Citrus trees (¶ 539Z.20)
 Compressor station structures (¶ 539Z.22)
 Drain tiles for field irrigation (¶ 539Z.25)
 Drain tiles for pasture (¶ 539Z.25)
 Electrical connections (¶ 539Z.24)
 Fences used to confine livestock (¶ 539C and 539Z.25)
 Gas pipelines (¶ 539C)
 Grain storage bins (¶ 539Z.27)
 Henhouses (¶ 539Z.25)

Check List XIII—Investment Tax Credit—Sec. 38 Property—Continued

Tangible property other than personal—continued
- Hydroelectric power plant structure housing generator and propulsion turbine (¶ 539Z.24)
- Integrated hog-raising facility—automatic equipment (¶ 539Z.25)
- Logging truck roads (¶ 539Z.45)
- Marine terminal facility (¶ 539Z.2795)
- Mooring cell (¶ 539Z.16)
- Oil derricks (¶ 539C)
- Oil pipelines (¶ 539C)
- Orchards and groves (¶ 539Z.285)
- Paved barnyards (¶ 539Z.25)
- Piping system used for recycling of cooling water (¶ 539Z.55)
- Plumbing connections (¶ 539Z.24)

Tangible property other than personal—continued
- Qualified timber property, portion of amortizable basis
- Refinery equipment—concrete fire-dike walls, with valves, piping, and prefabricated walkways (¶ 539Z.42)
- Roadways within manufacturing complex (¶ 539Z.2925)
- Soft drink vending machine (¶ 539Z.278)
- Storage facilities (used in farming) (¶ 539Z.25)
- Trucking terminal improvements (¶ 539Z.60)
- Waterwells (¶ 539Z.25)
- Wells providing water for farm livestock (¶ 539Z.25)

[¶ 68] Check List XIV—Property Not Qualified for Investment Tax Credit

Baseball player contracts (¶ 539Z.17)

Buildings
- Airport hangars (¶ 539Z.195)
- Apartment houses (¶ 539C)
- Barns (¶ 539C)
- Bus stations (¶ 539C)
- Craneway structure (¶ 539Z.195)
- Drive-up bank teller's booth (¶ 539Z.15)
- Energy plants
- Factory buildings (¶ 539C)
- Garages (¶ 539C)
- Laboratory "clean" rooms (¶ 539Z.195)
- Office buildings (¶ 539C)
- Quonset-type structures (¶ 539Z.195)
- Ski-lift control houses (¶ 539Z.195 and 539Z.453)
- Sports stadium (¶ 539Z.195)
- Stables (¶ 539Z.25)
- Stores (¶ 539C)
- Trailer park launderette (¶ 539Z.48)
- Warehouses (¶ 539C and 539Z.25)
- Wood block flooring (¶ 539Z.195)

Inherently permanent structures
- Lobster pound (¶ 539Z.279)
- Outdoor lighting facility (¶ 539Z.29)

Intangible property
- Copyrights (¶ 539C)
- Patents (¶ 539C)
- River bottom dredging (¶ 539Z.2795)
- Subscription lists (¶ 539C)

Livestock
- Horses (¶ 539Z.012)

Paved parking areas (¶ 539Z.2925)

Property used by tax-exempt organizations, other than in an unrelated trade or business (¶ 539C)

Property used for nontransient lodging (¶ 539C)
- Mobile homes (¶ 539Z.48)

Property used outside the United States, except as indicated at ¶ 67 herein (¶ 539C)

Structural components of buildings
- Air-conditioning system (¶ 539C and 539Z.103)
- Ceilings (¶ 539C)
- Chimneys (¶ 539C)
- Concrete pavement in gas station (¶ 539Z.2925)
- Concrete trenches in laboratory (¶ 539Z.195)
- Doors (¶ 539C)
- Electric wiring (¶ 539C)
- Fire escapes (¶ 539C)
- Floors (¶ 539C)
- Heating system (¶ 539C and 539Z.103)
- Hot water system (¶ 539Z.103)
- Lighting fixtures (¶ 539C)
- Paneling (¶ 539C)
- Partitions (¶ 539C)
- Plumbing and plumbing fixtures—sinks and bathtubs (¶ 539C)
- Polystyrene insulation (¶ 539Z.425)
- Recessed lighting (¶ 539Z.195)
- Ski-lift equipment (¶ 539Z.195 and 539Z.453)*
- Sprinkler systems (¶ 539C and 539Z.195)
- Stairs (¶ 539C)
- Tiling (¶ 539C)
- Walls (¶ 539C)
- Water coolers (¶ 539Z.103)
- Windows (¶ 539C)

* Tax Court has held that terminal and cable support towers of a ski-lift facility qualified for investment credit (¶ 539Z.453). The IRS National Office in LTR 7945004 agreed with the Tax Court.

B-11 FORM 3468 COMPUTATION OF INVESTMENT CREDIT

Form **3468**
Department of the Treasury
Internal Revenue Service

Computation of Investment Credit

▶ Attach to your tax return.

1979
22

Name

Identifying number as shown on page 1 of your tax return

Check the applicable box(es) below to elect the provisions of the specified code section(s):

A The corporation elects the basic or basic and matching ESOP percentage under section 48(n)(1) . . . . ☐

B I elect to increase my qualified investment to 100% for certain commuter highway vehicles under section 46(c)(6) . . . . . ☐

C I elect to increase my qualified investment under section 46(d) by all qualified progress expenditures made in the tax year and all subsequent years . . . . ☐

1 Use the format below to list your qualified investment in new or used property acquired or constructed and placed in service during the tax year. Also list (a) qualified progress expenditures made during the tax year and certain prior tax years and (b) qualified rehabilitation expenditures for the year. See the instructions for line 1(a) through 1(j).

If you are claiming 100% investment credit on certain ships, check this block ▶ ☐. See instruction K for details.

Note: *Include your share of investment in property made by a partnership, estate, trust, small business corporation, or lessor*

Type of property		Line	(1) Life years	(2) Cost or basis (See instruction G)	(3) Applicable percentage	(4) Qualified investment (Column 2 x column 3)
New property		(a)	3 or more but less than 5		33⅓	
		(b)	5 or more but less than 7		66⅔	
		(c)	7 or more		100	
Commuter highway vehicle		(d)	3 or more		100	
Qualified progress expenditures	1974 through 1978	(e)	7 or more		20	
	1979	(f)	7 or more		100	
Used property (See instructions for dollar limits)		(g)	3 or more but less than 5		33⅓	
		(h)	5 or more but less than 7		66⅔	
		(i)	7 or more		100	
Commuter highway vehicle		(j)	3 or more		100	

2 Qualified investment—Add lines 1(a) through (j) (see instruction M for special limits) . . . . . .

3 10% of line 2 . . . .

4 7% (4% for public utility property) of certain property (see instruction Q) . . . .

5 Corporations electing the basic or basic and matching ESOP percentage for contributions to ESOPs—Check election box A above (see instruction I and instruction for line 5)

(a) Basic 1% credit—Enter 1% of line 2 . . . .

(b) Matching credit (not more than 0.5%)—Enter allowable percentage times adjusted line 2 (attach schedule) . . . .

6 Patron's regular investment credit—Enter credit allocated from cooperative . . . .

7 Total—Add lines 3 through 6 . . . .

8 Carryover of unused credit(s) . . . .

9 Carryback of unused credit(s) . . . .

10 Tentative regular investment credit—Add lines 7, 8, and 9 . . . .

Tax Liability Limitations

11 **(a)** Individuals—Enter amount from Form 1040, line 37, page 2 . . . .
(b) Estates and trusts—Enter amount from Form 1041, line 27, page 1 . . . . . .
(c) Corporations—Enter amount from Schedule J (Form 1120), line 3, page 3 . . . } . . . . .

12 **(a)** Credit for the elderly (individuals only) . . . .
(b) Foreign tax credit . . . .
(c) Tax on lump-sum distribution from Form 4972 or Form 5544 . . . .
(d) Possessions corporation tax credit (corporations only) . . . .
(e) Section 72(m)(5) penalty tax (individuals only) . . . .

13 Total—Add lines 12(a) through (e) . . . .

14 Subtract line 13 from line 11 . . . .

15 **(a)** Enter smaller of line 14 or $25,000. See instruction M for special limits. (Married persons filing separately, controlled corporate groups, estates, and trusts, see instruction for line 15) . . . . .
(b) If line 14 is more than line 15(a) and you are a 1979 calendar year taxpayer, enter 60% of the excess (if your tax year ends in 1980, enter 70% of the excess). (Public utilities, railroads, and airlines, see instruction J.) . . . .

16 Regular investment credit limitation—Add lines 15(a) and (b) . . . .

283-158-3

(Continue computation on back.)

IC1394 Form 3468 (1979)

17 Allowed regular investment credit—Enter smaller of line 10 or line 16 . . . .

Note: *If line 10 exceeds line 16, the excess is an unused regular investment credit. See instruction F.*

18 Nonrefundable business energy investment credit limitation—Subtract line 17 from line 14 . . . . .

19 Enter nonrefundable business energy investment credit from line 8 of Schedule B (Form 3468) . . .

20 Allowed nonrefundable business energy investment credit—Enter smaller of line 18 or line 19 . . . .

Note: *If line 19 exceeds line 18, the excess is an unused nonrefundable business energy investment credit. See instruction F.*

21 Total allowed regular investment credit and nonrefundable business energy investment credit—Add lines 17 and 20. Enter here and on Form 1040, line 41; Schedule J (Form 1120), line 4(b), page 3; or the appropriate line on other returns . . . .

Schedule A If any part of your investment in line 1 or 4 above was made by a partnership, estate, trust, small business corporation, or lessor, complete the following statement and identify property qualifying for the 7% or 10% investment credit.

Name (Partnership, estate, trust, etc.)	Address	Property			
		Progress expenditures	New	Used	Life years
		$	$	$	

(If property is disposed of prior to the life years used in figuring the investment credit, see instruction E.)

☆ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-283-158 (C1395) 283-158-1

SENATE TAXATION COMMITTEE
EXHIBIT B(1)
FEBRUARY 8, 1983
SB 241

S.B. 241

1. Page 3, line 20.
Following: "expanded"
Strike: "industry"
Insert: "manufacturer"

Senate Taxation Comm
Exhibit 8(2).

February 8, 1983
SB 241

ECONOMIC GROWTH COUNCIL

P.O. BOX 1273 • GREAT FALLS, MT 59403
(406) 761-5036

GREAT FALLS
MONTANA
SERVING GREAT FALLS AND
CASCADE COUNTY MONTANA

February 7, 1983

To: Taxation Committee
Montana Senate

Re: SB-241 <u>1% of Wages Credit</u>

The 1% of wages credit is an effective stimulant for increased employment. In recent years labor costs have increased dramatically and forced business to decide between hiring more people or buying automated equipment. The wage credit lowers labor costs without lowering wage scales and <u>without</u> resorting to government subsidies.

Given that most business failures occur during the first three years of operation, the wages credit comes at a time when employers most need increased profitability. The tax savings could go a long way toward improving the viability of new or expanding businesses and serve to help stabilize a very cyclical Montana economy.

Increased employment means higher personal tax revenues for the state. The gain in personal tax receipts more than offsets any "loss" from the wages credit. An example of the wages credit and increased personal tax revenues is given in Exhibit 7 of the investment tax credits attachments.

STATE OF MONTANA

REQUEST NO. 212-83

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 241 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 241 generally revises the tax credit available for new or expanding manufacturers and provides an applicability date.

FISCAL IMPACT:

There is no data available to estimate the fiscal impact of the proposed legislation. The number of jobs and the payroll added by new or expanding employment cannot be estimated for the biennium. The bill expands the tax credit to individual income tax liabilities, which may have some additional impact on collections.

FISCAL NOTE 8:G/1

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-27-83

Senate BILL NO. 241

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE TAX CREDIT AVAILABLE FOR NEW OR EXPANDING MANUFACTURERS; AMENDING SECTIONS 15-31-124 THROUGH 15-31-127, MCA; DIRECTING THE AMENDMENT OF RULES 42.23.511 THROUGH 42.23.516 AND 42.23.518 THROUGH 42.23.522, ADMINISTRATIVE RULES OF MONTANA; REPEALING RULE 42.23.517, ADMINISTRATIVE RULES OF MONTANA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-31-124, MCA, is amended to read:

"15-31-124. New or expanded ~~industry~~ manufacturer credit — definitions. As used in 15-31-124 through 15-31-127, the following definitions apply:

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

(2) "Expanding" means to expand or diversify a present operation to increase total full-time jobs by at least 30% or ~~more~~ at least five, whichever is less.

(3) ~~"Manufacturing"~~ "Manufacturer" means ~~the~~ any business that engages in a process of mechanical or chemical transformation of materials or substances into new products, as described in the standard industrial classification manual of 1972 by the office of management and budget of the

United States.

~~(4) "New corporation" means a corporation engaging in manufacturing for the first time in this state and manufacturing a product not currently manufactured or substantially similar to a product currently manufactured by that corporation or any affiliate corporation in this state; it does not include reorganizing an existing corporation in this state or the creation of a parent, subsidiary, or affiliate of which 50% or more is owned or controlled by the same person, corporation, or association."~~

Section 2. Section 15-31-125, MCA, is amended to read:

"15-31-125. Determination of tax credit. A new or expanding ~~manufacturing corporation~~ manufacturer may receive a license tax credit based on a percentage of wages paid its new employees within this state for a period of 3 years as follows: the first 3 years of operation of a new ~~corporation~~ manufacturer or the first 3 years of expansion of an expanding ~~corporation~~ manufacturer, a credit of 1% of the total new wages paid in this state, as wages are defined in 39-51-201 may be allowed. In determining total wages for an expanding ~~corporation~~ manufacturer, only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and number of jobs of the ~~corporation~~ manufacturer in the 12-month period immediately preceding the expansion are averaged to determine

INTRODUCED BILL SB 241

eligibility for the credit."

Section 3. Section 15-31-126, MCA, is amended to read:

"15-31-126. Limitation. This credit is available only to those new and expanding ~~corporations~~ manufacturers that provide jobs within the state of Montana."

Section 4. Section 15-31-127, MCA, is amended to read:

"15-31-127. Department duties. The department shall determine the eligibility of a ~~corporation~~ manufacturer for this credit, promulgate rules, prepare forms, maintain records, and perform other duties necessary to carry out 15-31-124 through 15-31-127."

NEW SECTION. Section 5. Carryover. (1) The tax credit provided for in 15-31-125 may not exceed the manufacturer's tax liability for the taxable year.

(2) Any part of the tax credit allowed by 15-31-125 that was not taken because of the limitation contained in subsection (1) may be carried forward for up to 10 taxable years. The carryover may not result in a credit in excess of the manufacturer's tax liability for any taxable year.

NEW SECTION. Section 6. New or expanded industry credit — definitions. As used in [sections 6 through 10], the following definitions apply:

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

(2) "Expanding" means to expand or diversify a present operation to increase total full-time jobs by at least 30%

or at least five, whichever is less.

(3) "Manufacturer" means any business that engages in a process of mechanical or chemical transformation of materials or substances into new products, as described in the standard industrial classification manual of 1972 by the office of management and budget of the United States.

NEW SECTION. Section 7. Determination of tax credit. The individual liable for the payment of the tax imposed by 15-30-103 on income derived from a new or expanding manufacturer may receive a credit against the tax imposed by 15-30-103. The amount of the credit is based on a percentage of wages paid its new employees within this state for a period of 3 years as follows: for the first 3 years of operation of a new manufacturer or the first 3 years of expansion of an expanding manufacturer, a credit of 1% of the total new wages paid in this state, as wages are defined in 39-51-201. In determining total wages for an expanding manufacturer, only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and number of jobs of the manufacturer in the 12-month period immediately preceding the expansion are averaged to determine eligibility for the credit. If more than one individual is liable for the payment of the tax imposed by 15-30-103 on income derived from a new or expanding manufacturer, the credit must be prorated among the individuals who are liable for payment of the tax.

NEW SECTION. Section 8. Limitation. The credit provided for in [section 7] is available only for new and expanding manufacturers that provide jobs within the state of Montana.

NEW SECTION. Section 9. Department duties. The department shall determine the eligibility of an individual for the credit provided for in [section 7], promulgate rules, prepare forms, maintain records, and perform other duties necessary to carry out [sections 6 through 10].

NEW SECTION. Section 10. Carryover. (1) The tax credit provided for in [section 7] may not exceed the individual's tax liability for the taxable year.

(2) Any part of the tax credit allowed by [section 7] that was not taken because of the limitation contained in subsection (1) may be carried forward for up to 10 taxable years. The carryover may not result in a credit in excess of the individual's tax liability for any taxable year.

Section 11. The Department of Revenue shall amend Rule 42.23.511, Administrative Rules of Montana, to read:

"42.23.511 CREDIT FOR NEW OR EXPANDING ~~CORPORATIONS~~ MANUFACTURERS (1) Sections 15-31-124 through 15-31-127 and [section 5], MCA, as amended, allow a tax credit equal to 1% of wages paid by a new or expanding ~~corporation~~ manufacturer. Any ~~corporation~~ manufacturer seeking credit

under 15-31-124 through 15-31-127, MCA, shall conclusively demonstrate its eligibility to the department. The department's decision shall be final.

(2) Each ~~corporation~~ manufacturer seeking a credit under 15-31-124 through 15-31-127, MCA, shall show:

(a) that ~~it-is-a-corporation-preregistered-pursuant-to Title-35,-chapter-1,-MCA,-as--amended~~ the manufacturer is preregistered as a valid existing business under the laws of this state;

(b) that it was registered for the first time during the tax year for which the first credit is claimed or that the industry meets the definition of expanding per 15-31-124, MCA, as amended; and

(c) that ~~the-corporation-is-engaged--in--manufacturing~~ the applicant is a manufacturer as that term is defined in 15-31-124, MCA~~;-and~~

~~(d)--that-the-product-manufactured-is-one,-which--prior to-its-production-by-the-corporation,-was-not-then-currently produced-in-this-state.~~"

Section 12. The Department of Revenue shall amend Rule 42.23.512, Administrative Rules of Montana, to read:

"42.23.512 PERIOD OF ELIGIBILITY (1) As used in this section, period of eligibility means:

(a) in the case of a new ~~corporation~~ manufacturer, the consecutive 3-year period during which a credit may be claimed, commencing ~~from the initial act of doing business in Montana~~ with the start of manufacturing after all planning, construction, and testing have been completed; or

(b) in the case of an expanding ~~corporation~~ manufacturer, the consecutive 3-year period during which a credit may be claimed, commencing with ~~preparation of manufacture of the product~~ the start of expanded manufacturing following the completion of all planning, construction, and testing required for the expansion.

~~(2) A corporation seeking tax credit shall not be allowed credit after the expiration of the period of eligibility. This period is limited to the 3 consecutive years following initial activity. A corporation may claim credit for the first year and third or first and second years of the 3-year period.~~

~~(3)~~(2) Those periods of time before actual production of a new product, during which support, planning, construction of facilities, and other preparatory activities occur, ~~shall~~ may not be included in determining the period of eligibility."

Section 13. The Department of Revenue shall amend Rule 42.23.513, Administrative Rules of Montana, to read:

"42.23.513 MANUFACTURING DEFINED ~~(1) A manufacturing corporation is one engaged in the mechanical or chemical transformation of materials or substances into new products.~~

~~The manufacturing facilities are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Corporations engaged in assembling component parts of manufactured products are also considered to be manufacturing, if the new product is neither a structure nor other fixed improvement. Included in this definition is the blending of materials such as lubricating oils, plastics, resins, or liquors.~~

~~(2) The materials processed by manufacturing include products of agriculture, forestry, fishing, mining, and quarrying, as well as products of other manufacturers. The new product may be "finished" in the sense that it is ready for utilization or consumption or it may be "semifinished" to become a raw material for another corporation engaged in further manufacturing. For example, the product of the copper smelter is the raw material used in electrolytic refineries; refined copper is the raw material used by copper wire mills; and copper wire is the raw material used by certain electrical equipment manufacturers.~~

~~(3) The materials used by manufacturing establishments may be purchased directly from the purchasers, obtained through customary trade channels, or secured without recourse to the market by transferring the product from one establishment to another which is under the same ownership.~~

~~Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.~~

~~(4)~~(1) In instances where a classification between manufacturing and other divisions of the 1972 Standard Industrial Classification Manual system is difficult, the department shall classify according to its best judgment. This decision shall be final.

~~(5)~~(2) The following activities, although not always considered as manufacturing, are so classified:

(a) milk bottling and pasteurizing;

(b) fresh fish packaging;

(c) apparel jobbing (assigning of materials to contract factories or shops for fabrication or other contract operations) as well as contracting on materials owned by others;

(d) publishing;

(e) ready-mixed concrete production;

(f) leather converting;

(g) logging;

(h) wood preserving;

(i) various service industries to the manufacturing trade, such as typesetting, engraving, plate printing, and preparation of electrotyping and stereotype plates, but not

blueprinting or photocopying services;

(j) electroplating, plating, metal heat treating, and polishing for the trade;

(k) lapidary work for the trade;

(l) fabricating of signs and advertising displays.

~~(6) There are also some manufacturing-type activities performed by corporations which are primarily engaged in activities covered by other divisions of the Standard Industrial Classification Manual of 1972, and are thus not classified as manufacturing. A few of the important examples are:~~

~~(a) agriculture, forestry, and fishing (Processing on farms is not considered manufacturing if the raw materials are grown on the farm and if the manufacturing activities are on a small scale without the extensive use of paid labor. Other exclusions are custom grist milling, threshing, and cotton ginning.);~~

~~(b) mining with the dressing and beneficiating of ores; the breaking, washing, and grading of coal; the crushing and breaking of stone; and the crushing, grinding, or otherwise preparing of sand and gravel and nonmetallic chemical and fertilizer minerals other than barite classified as mining;~~

~~(c) construction (Fabricating operations performed at the site of a construction by contractors are not considered~~

~~manufacturing. The prefabrication of sheet metal, concrete, and terrazzo products and similar construction materials shall be classified as manufacturing.);~~

~~(d) wholesale and retail trade, with corporations engaged in the following types of operations included in wholesale or retail trade:~~

~~(i) cutting and selling purchased carcasses;~~

~~(ii) preparing feed at grain elevators and farm supply stores;~~

~~(iii) stemming leaf tobacco at wholesale establishments;~~

~~(iv) production of wiping rags;~~

~~(v) breaking of bulk and redistribution in smaller lots, including packaging, repackaging, or bottling products such as liquors or chemicals;~~

~~(vi) primarily selling products to the general public which are produced on the same premises from which they are sold, such as bakeries, candy stores, ice cream parlors, and custom tailors;~~

~~(e) services with tire retreading and rebuilding, sign painting and lettering shops, and the production of motion picture films classified as services and with repair activities, with the following exceptions, classified as services:~~

~~(i) ship and boat building and repair;~~

~~(ii) the rebuilding of machinery and equipment on a factory basis; and~~

~~(iii) machine shop repair."~~

Section 14. The Department of Revenue shall amend Rule 42.23.514, Administrative Rules of Montana, to read:

"42.23.514 NEW ~~CORPORATION~~ MANUFACTURER (1) A new ~~corporation~~ manufacturer is one:

~~(a) which has never done business in Montana in any corporation prior to the taxable year for which the credit is claimed; a corporation which reported or should have reported any state or federal agency or officer authorized to collect taxes measured by net income shall not be eligible;~~

~~(b) which manufactures a product which was not manufactured in Montana prior to that time~~ which, on a particular site within Montana, is either building a new plant or reopening an existing plant with the effect of net jobs new to the locality.

(2) A ~~corporation~~ manufacturer reorganized pursuant to Title 35, chapter 1, MCA, as amended, shall not be eligible for credit under 15-31-124 through 15-31-127 and [section 5], MCA.

~~(3) No credit shall be allowed if 50% of a corporation's stock is owned or controlled by the same individual, corporation, or association of individuals or~~

~~corporations. In this instance, the department presumes dependent corporate status. If less than 50% of a corporation's stock is owned or controlled by the same individual or corporation or association of individuals or corporations, an applicant for credit under 15-31-124 through 15-31-127, MCA, shall demonstrate its independent corporate existence to the satisfaction of the department before credit may be granted.~~

~~(4) A corporation formed as a joint venture, combination, subsidiary, parent, affiliate, merger, or any other kind of cooperative action between two or more corporations which cannot demonstrate an independent corporate existence shall not be accepted as a new corporation by the department for purposes of 15-31-124 through 15-31-127, MCA.~~"

Section 15. The Department of Revenue shall amend Rule 42.23.515, Administrative Rules of Montana, to read:

"42.23.515 EXPANDING ~~CORPORATION~~ MANUFACTURER (1) An expanding ~~corporation~~ manufacturer is one which:

(a) was registered to do business in Montana at least 1 year prior to claiming a credit under 15-31-124 through 15-31-127 and [section 5], MCA;

(b) has at all times prior to claiming credit under 15-31-124 through 15-31-127 and [section 5], MCA, complied with the requirements of Title 35, chapter 1, MCA, as

amended; and

(c) has at all times prior to claiming credit under 15-31-124 through 15-31-127 and [section 5], MCA, complied with the requirements of Title 15, chapter 31, MCA, as amended~~; and~~

~~(d) manufactures a product during the period of eligibility which was not manufactured in Montana prior to that time.~~

(2) Expanding means to enlarge the facilities or to diversify the products of a corporation which has done business in Montana at least 1 year prior to claiming credit under 15-31-124 through 15-31-127 and [section 5], MCA, by increasing total full time jobs attributable to Montana by ~~30% or more~~ at least 30% or at least five, whichever is less. The increase shall be measured as a percentage increase of full time jobs held with the ~~corporation~~ manufacturer in Montana or attributable to Montana. The department shall recognize only full time jobs in determining eligibility for credit under 15-31-124 through 15-31-127 and [section 5], MCA."

Section 16. The Department of Revenue shall amend Rule 42.23.516, Administrative Rules of Montana, to read:

"42.23.516 COMPLIANCE WITH CERTAIN STATUTES REQUIRED (1) A new or expanding ~~corporation~~ manufacturer which fails to comply with the provisions of Title 15, chapter 31, MCA, as amended, and Title 35, chapter 1, MCA, as amended, during the period of eligibility shall lose its eligibility to claim credit under 15-31-124 through 15-31-127 <u>and [section 5]</u>, MCA."

Section 17. The Department of Revenue shall amend Rule 42.23.518, Administrative Rules of Montana, to read:

"<u>42.23.518 SUBMISSION OF EMPLOYEE LISTS</u> (1) An expanding ~~corporation~~ <u>manufacturer</u> seeking credit under 15-31-124 through 15-31-127 <u>and [section 5]</u>, MCA, shall submit accurate employee lists to the department, so that the department may determine the percentage increase of new jobs in the taxable year for which credit is claimed.

(2) In applicable instances, an expanding ~~corporation~~ <u>manufacturer</u> shall submit 5 years of lists in order that an average employment figure be determined and the number of new employees discovered. If a ~~corporation~~ <u>manufacturer</u> has not done business for a 5-year period, employee lists for all years of operation shall be submitted. A new ~~corporation~~ <u>manufacturer</u> shall be exempt from this requirement.

(3) The lists shall include:

(a) all employees of the existing and expanded ~~corporation~~ <u>manufacturer</u>;

(b) their employment status clearly set out (whether full, half, or part-time);

(c) the position with the ~~corporation~~ <u>firm</u>;

(d) wages paid;

(e) the type of product produced by those employees employed by the expanded portion of the ~~corporation~~ <u>firm</u>; and

(f) the number of years the employee has been employed."

Section 18. The Department of Revenue shall amend Rule 42.23.519, Administrative Rules of Montana, to read:

"<u>42.23.519 DETERMINATION OF NEW JOBS</u> (1) The intent of 15-31-125, MCA, as amended, is to grant credit upon wages paid to new employees. The department shall determine from the information submitted if there has been <u>at least</u> a 20% increase in the number of jobs <u>or an increase of at least five jobs</u> and that these positions are filled by newly-hired personnel.

(2) The only employees which shall be counted in determination of credit are those who~~:~~

~~(a)~~ were not employed by the ~~corporation~~ <u>manufacturer</u> within 5 years of expansion~~; and~~

~~(b) are employed in production of the new product.~~

(3) Any employee who was employed by an existing ~~corporation~~ <u>manufacturer</u> shall not be counted as a new employee of the expanded ~~corporation~~ <u>manufacturer</u> if employment occurred within 5 years of the expansion.

~~(4) No employee who was employed in existing~~

~~operations-and--who--for--any--reason--is--employed--in--the expanded---operations--shall--be--counted--for--purposes--of determining-eligibility.~~

~~(5)--Those-employees-who-participated-in--the--planning and--preparation--of--the-expansion-of-the-corporation-shall not--be--counted--as---new---employees---of---the---expandee corporations,--unless,-in-fact,-these-personnel-can-be-shown to-have-been-hired-specifically-for-the-expansion-for--which credit--is--claimed--and-that-planning-the-expansion-was-the only-activity-assigned-them.~~"

Section 19. The Department of Revenue shall amend Rule 42.23.520, Administrative Rules of Montana, to read:

"42.23.520 DETERMINATION OF WAGES (1) In determining the amount of credit, the total amount of eligible wages paid new employees ~~producing-the--new--product--or--products~~ shall be computed for the year in which the credit is claimed.

(2) A taxpayer's taxable year may be used in place of the 12-month period mandated by 15-31-125, MCA, as amended, for determination of the credit. In cases where results from computation of differing periods of time are found to yield differing results, the smaller figure shall be accepted by the department."

Section 20. The Department of Revenue shall amend Rule 42.23.521, Administrative Rules of Montana, to read:

"42.23.521 AVAILABILITY OF TAX CREDIT (1) A claim for credit may be made first as a new ~~corporation--or~~ manufacturer and then, later, as expansion occurs, as an expanding ~~corporation;--no-corporation-may-qualify-as-both.~~ ~~If--a--corporation--has--been--granted--credit--as---a---new corporation,-it-may-not-subsequently-be-granted-credit-as-an expanding-corporation~~ manufacturer.

(2) A ~~corporation~~ manufacturer may claim credit due under 15-31-124 through 15-31-127 and [section 5], MCA, for more than one manufacturing facility; but in no case shall the department allow a claim for credit, if the total claim for credit exceeds total liability imposed by 15-31-101, 15-31-121, and 15-31-122, MCA, as amended.

(3) A corporation qualifying under 15-31-124 through 15-31-127 and [section 5], MCA, shall use any credit authorized as an offset to tax liability incurred during the period of eligibility. ~~Carryback-and-carryover-provisions-of 15-31-114(2),-MCA,--do--not--apply--in--taking--this--credit~~ Carryovers, however, are available as set forth in [section 5], MCA."

Section 21. The Department of Revenue shall amend Rule 42.23.522, Administrative Rules of Montana, to read:

"42.23.522 WHEN CREDIT MAY BE CLAIMED ~~(1)--The--credit available--under--15-31-124--through--15-31-127,-MCA,-may-be claimed-for-the-taxable-year-the-activity-for--which--credit~~

~~is claimed occurred. Credit may not be accumulated, and if a corporation does not claim credit for which it is eligible during a taxable year, that credit is lost.~~

~~(2) Eligibility for the tax credit expires with the corporation's taxable year.~~

~~(3)~~ A ~~corporation~~ manufacturer may use the credit available under 15-31-124 through 15-31-127 and [section 5], MCA, only when the ~~corporation~~ manufacturer actually manufactures products in this state. No claim will be recognized if a corporation completes all preparatory phases without manufacturing a product."

NEW SECTION Section 22. Repealer. Rule 42.23.517, Administrative Rules of Montana, is repealed.

NEW SECTION. Section 23. Applicability. This act applies to taxable years beginning after December 31, 1982.

NEW SECTION. Section 24. Codification instruction. (1) Section 5 is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to section 5.

(2) Sections 6 through 10 are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to sections 6 through 10.

-End-

Contents

Senate Taxation Committee
Exhibit C
February 8, 1983
SB 343

ECONOMIC GROWTH COUNCIL

P.O. BOX 1273 • GREAT FALLS, MT 59403
(406) 761-5036

GREAT FALLS
MONTANA
SERVING GREAT FALLS AND CASCADE COUNTY MONTANA

February 7, 1983

To: Taxation Committee
Montana Senate

Re: SB-343 Class 5 Property Classification Abatement

The proposed legislation affecting class 5 property classification and associated abatement of property taxes is imperative if Montana hopes to recruit new businesses which would employ more than 100 persons. The present Montana economy is comprised of mostly small businesses (92% of Montana businesses employ fewer than 20 workers), which makes the state unduly susceptible to business fluctuations.

Small business failures have increased at an alarming rate during the recent recession. Larger business, also susceptible to economic conditions, is more able to weather economic storms. Large firms may cut back employment, but have the ability to produce profitably at lower production levels. In essence, large businesses have multiple economies of scale, while most small businesses are limited in their ability to scale down since any reduction usually means operating at less than breakeven.

Montana needs to diversify not only in terms of industry types, but also in terms of industry size. The class 5 property legislation would provide a more conducive environment for larger employers to operate within Montana.

_________ BILL NO. SB343

INTRODUCED BY Goodover

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE TAXATION OF CERTAIN CLASS FIVE PROPERTY AND PROPERTY ELIGIBLE FOR TAX ABATEMENT; REVISING THE PROCEDURE FOR THE PREPAYMENT OF TAXES; DIRECTING THE DEPARTMENT OF REVENUE TO AMEND RULES 42.19.1211 THROUGH 42.19.1213 AND 42.19.1223, ADMINISTRATIVE RULES OF MONTANA; AMENDING SECTIONS 15-6-135, 15-6-152, AND 15-16-201, MCA; AND REPEALING RULE 42.19.1224, ADMINISTRATIVE RULES OF MONTANA."

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)(c) 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.

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

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

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

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that

establishes a new plant in Montana for the operation of a new industrial endeavor, ~~as--distinguished--from--a--mere~~ including the expansion~~,--reorganization,--or-merger~~ of an existing industry.

(b) New industry includes only those industries that:

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

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

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

(5) New industrial property does not include:

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

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

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

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

Section 2. Section 15-6-152, MCA, is amended to read:

"15-6-152. Application for classification as new industrial property. (1) Any person, firm, or other group seeking to qualify its property for classification as new industrial property under class five shall make application to the department of revenue on a form provided by the department.

~~(2)--The-department-of-revenue-shall--promulgate--rules for-the-determination-of-what-constitutes-an-adverse-impact, taking--into--consideration--the--number--of--people--to--be employed-and-the-size-of-the-community-in-which-the-location of-the-industrial-property-is-contemplated.~~

~~(3)~~(2) If the department ~~makes----an----initial determination~~ determines that the industrial property qualifies as new industrial property under class five, it shall publish notice of ~~and--hold--a--public--hearing-to determine--whether---the---property---should---retain~~ this classification.

~~(4)--Local--taxing--authority-officials-may-waive-their objections-to-the-property's-classification-in-class-five-if the-owner-of-the-new-industrial-property--agrees--to--prepay property--taxes--on--the--property--during--the-construction~~

~~period. The maximum amount of prepayment shall be the amount of tax the owner would have paid on the property if it had not been classified under class five.~~

~~(5) If a new industrial facility qualifies under class five, its property tax payment may not be reduced for reimbursement of its prepaid taxes as provided in 15-16-201 until the class five qualification expires.~~

(3) New industrial property may not qualify for both the reduced taxation under class five and for the property tax abatement available under 15-24-1402."

Section 3. Section 15-16-201, MCA, is amended to read:

"15-16-201. Tax prepayment -- new industrial facilities. (1) * If it is determined by the board of county commissioners of a county in which a new industrial facility, as defined in 15-6-135, is to be located that the new facility will create a substantial adverse impact on existing state, county, or municipal services, the person intending to construct or locate ~~a major new industrial~~ the facility~~, as defined in subsection (2) of this section,~~ shall upon request of the board of county commissioners of ~~the county in which the facility is to be located,~~ prepay, when permission is granted to construct or locate by the appropriate governmental agency, an amount equal to as much as three times the estimated property tax due the year the facility is completed. The calculation of estimated tax must take into account the reduced taxation on new or expanding industrial property available under 15-6-135 and 15-24-1402. The person who is to prepay under this section shall not be obligated to prepay the entire amount at one time but, upon request of the board of county commissioners of the county, shall prepay only that amount shown to be needed from time to time. To assure this payment or payments, the person who is to prepay shall guarantee to the board of county commissioners and also have a bank or banks guarantee that these amounts will be paid as needed for expenditures created by the impact. When the facility is completed and assessed by the department of revenue, it shall be subject ~~during--the--first-3-years-and-thereafter~~ to taxation as all other property similarly situated or as it may be reduced under the provisions of 15-6-135 or 15-24-1402, except that one-fifth of the amount prepaid shall be allowed as a credit against property taxes in each of the first 5 years after the start of productive operation of the facility.

(2) A major new industrial facility is a manufacturing or mining facility other than a large-scale mineral development as defined in 90-6-302(4) which will employ on an average annual basis at least 100 people in construction or operation of the facility and which will create a substantial adverse impact on existing state, county, or municipal services."

Section 4. The Department of Revenue is directed to amend Rule 42.19.1211, Administrative Rules of Montana, to read:

"42.19.1211 PERIOD OF CLASSIFICATION AS NEW INDUSTRIAL PROPERTY

(1) The classification as new industrial property becomes operative as to all qualifying property on the first assessment date falling on or after the date of commencement of operations and continues for each taxable year thereafter for which the assessment date falls within the 3-year period beginning on the date of commencement of such operations.

(2) ~~Once the 3-year period begins to run, starting on the date operations commence, the period runs to its expiration unaffected by additions of property to the industrial use, expansion of operations, changes in operations (other than changes that would disqualify the unit from classification as new industrial property), or cessation or curtailment of the operations.~~ An expansion of industrial property occurring during the 3-year period, if qualifying under 15-6-135, must be treated as new industrial property. The classification as new industrial property becomes operative on the first assessment date on or after the date of commencement of operations of the expansion.

(3) Prior to and after the 3-year period of classification as new industrial property, the property in

question is taxable as other similar property.

(4) The taxable year is considered to be the calendar year and the assessment date within any given calendar year is January 1 for all qualifying property other than migratory personal property. Migratory personal property coming into Montana after the regular assessment date has an assessment date on the date the property comes to rest and becomes a part of the general property within any county of the state, but not less than 30 days after entry into Montana."

Section 5. The Department of Revenue is directed to amend Rule 42.19.1212, Administrative Rules of Montana, to read:

"42.19.1212 COMMENCEMENT OF OPERATIONS

~~(1)~~ The date of commencement of operations is the date when the new industrial plant <u>or expansion thereof</u> first begins to function as an organized unit and for its primary purpose, even if the operation is only for limited production or upon a limited scale."

Section 6. The Department of Revenue is directed to amend Rule 42.19.1213, Administrative Rules of Montana, to read:

"42.19.1213 CHANGES IN OPERATIONS

~~(1) As a new industry adds to its plant and properties during the 3-year period provided for in 15-6-135, MCA, the~~

~~additional property, if it otherwise qualifies, is also classified as new industrial property for the remainder of the period.~~ 264

~~(2)~~(1) Classification as new industrial property ceases upon sale; transfer; change of possession; or other change in ownership, possession, or control of such property, unless prior to such action, application is made by the transferee for continuation as new industrial property and the application is granted by the department. The loss of classification as new industrial property does not apply to transactions such as the mortgaging of the property or otherwise using the property as security when there is no change in ownership or possession.

~~(3)~~(2) If a qualified new industry ceases to operate as a new industry under the provisions of 15-6-135, MCA, the classification as new industrial property terminates.

~~(4)~~(3) If a qualified new industry ceases to operate, either temporarily or permanently, ~~the 3-year period continues until its normal expiration date, regardless of subsequent commencement of new operations. There is no tacking of periods. Following cessation of operation, an application for classification as new industrial property may not be granted unless the new operation is substantially different from the former operation.~~ under normal conditions, the 3-year period continues until its normal expiration date. If another treatment would be beneficial to the new industry or a successor industry, application for this treatment must be made to the department director."

Section 7. The Department of Revenue is directed to amend Rule 42.19.1223, Administrative Rules of Montana, to read:

"42.19.1223 PROCESSING OF APPLICATION

(1) Upon receipt of an application for classification as new industrial property, the department reviews the application to determine whether it qualifies under 15-6-135, MCA. ~~If from this review the department determines that the proposed operation will employ 100 or more individuals, either during construction or operation, then the department notifies all affected local governments and conducts public hearings on the question of adverse impact. The hearings are held in the affected locals. The department may schedule other hearings on the application if considered necessary.~~

(2) The department decision on the application is made in writing and sent to the applicant. An applicant who is dissatisfied with the department's decision may appeal to the state tax appeal board.

(3) The department's final decision on the application is sent to all affected county assessors."

NEW SECTION. Section 8. Repealer. Rule 42.19.1224, Administrative Rules of Montana, is repealed.

-End-

SENATE TAXATION COMMITTEE
EXHIBIT D
FEBRUARY 8, 1983
SB 172

Amendment to SB 172

1. Page 2, line 11.
Following: "(d)"
Strike: "all"
Following: "benefits"
Strike: ", not in excess of ~~$360~~ $3,600,"

2. Page 2, line 12.
Following: "endowment"
Insert: "by an individual age 62 or older"

3. Page 2, line 13.
Following: "system"
Strike: ";"
Insert: "determined in accordance with the following schedule:

~~adjusted~~ gross income	benefit exemption
$ 0 - $10,000	$3,600
10,001 - 12,000	2,400
12,001 - 16,000	1,200
over 16,000	-0- "

JCH3:Amend SB 172