

1

Senate BILL NO. 378
Robert

2 INTRODUCED BY _____

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE PROPERTY USED
 5 IN MINING FROM THE DEFINITION OF NEW INDUSTRIAL PROPERTY;
 6 AMENDING SECTION 84-301, R.C.M. 1947."

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

9 Section 1. Section 84-301, R.C.M. 1947, is amended to
 10 read as follows:

11 "84-301. Classification of property for taxation. For
 12 the purpose of taxation the taxable property in the state
 13 shall be classified as follows:

14 Class One. The annual net proceeds of all mines and
 15 mining claims, except coal mines, after deducting only the
 16 expenses specified and allowed by section 84-5403; also
 17 where the right to enter upon land, to explore or prospect,
 18 or dig for oil, gas, coal or mineral is reserved in land or
 19 received by mesne conveyance (exclusive of leasehold
 20 interests), devise or succession by any person or
 21 corporation, the surface title to which has passed to or
 22 remains in another, the state department of revenue shall
 23 determine the value of the right to enter upon said tract of
 24 land for the purpose of digging, exploring, or prospecting
 25 for gas, oil, coal or minerals, and the same shall be placed

1 in this classification for the purpose of taxation.

2 Class Two. All agricultural and other tools, implements
 3 and machinery, gas and other engines and boilers, threshing
 4 machines and outfits used therewith, automobiles, motor
 5 trucks and other power-driven cars, vehicles of all kinds
 6 except mobile homes, boats and all watercraft, harness,
 7 saddlery and robes and except as provided in Class Five (a)
 8 of this section, all poles, lines, transformers, transformer
 9 stations, meters, tools, improvements, machinery and other
 10 property used and owned by all persons, firms, corporations,
 11 and other organizations which are engaged in the business of
 12 furnishing telephone communications, exclusively to rural
 13 areas, or to rural areas and cities and towns provided that
 14 any such city or town has a population of eight hundred
 15 (800) persons or less; and provided further, that the
 16 average circuit miles for each station on the system is more
 17 than one and one-quarter (1 1/4) miles.

18 Class Three. Livestock, poultry, and unprocessed
 19 products of both; furniture and fixtures used in commercial
 20 activities; the annual gross proceeds of underground coal
 21 mines; and all office or hotel furniture and fixtures,
 22 except improvements included in Class Nine.

23 Class Four. (a) All land, town and city lots, with
 24 improvements, except improvements included in Class Nine,
 25 and all trailers affixed to land owned, leased, or under

INTRODUCED BILL

1 contract or purchase by the trailer owner, manufacturing and
 2 mining machinery, fixtures and supplies, except as otherwise
 3 provided by the constitution of Montana, and except as such
 4 property may be included in Class Five, Class Seven or Class
 5 Eight.

6 (b) Mobile homes without regard to the ownership of
 7 the land upon which they are situated, except those held by
 8 a distributor or dealer of mobile homes as part of his stock
 9 in trade, and except as such property may be included in
 10 Class Eight.

11 Class Five. (a) All poles, lines, transformers,
 12 transformer stations, meters, tools, improvements, machinery
 13 and other property used and owned by co-operative rural
 14 electrical and co-operative rural telephone associations
 15 organized under the laws of Montana except those within the
 16 incorporated limits of a city or town in which less than
 17 ninety-five per cent (95%) of the electric consumers and/or
 18 telephone users are served by a co-operative organization,
 19 and as to the property enumerated in this sub-section (a)
 20 within incorporated limits of a city or town in which less
 21 than ninety-five per cent (95%) of the electric consumers or
 22 users will be served by a co-operative organization, such
 23 property shall be put in Class Two.

24 (b) All unprocessed agricultural products either on
 25 the farm or in storage, irrespective of whether said

1 products are owned by the elevator, warehouse or flour mill
 2 owner or company storing the same, or any other person
 3 whomsoever, except all perishable fruits and vegetables in
 4 farm storage and owned by the producer, and excepting
 5 livestock and poultry and the unprocessed products of both.

6 (c) The dwelling house, and the lot on which it is
 7 erected, owned and occupied by any resident of the state,
 8 who has been honorably discharged from active service in any
 9 branch of the armed forces, who is rated one hundred per
 10 cent (100%) disabled due to a service-connected disability
 11 by the United States veterans administration or its
 12 successors.

13 In the event of the veteran's death, the dwelling
 14 house, and the lot on which it is erected, so long as the
 15 surviving spouse remains unmarried and the owner and
 16 occupant of the property, shall remain within this
 17 classification.

18 Class Six. Property formerly included in this class is
 19 now classified by section 84-308, R.C.M. 1947.

20 Class Seven. (a) All new industrial property. New
 21 industrial property shall mean any new industrial plant,
 22 including land, buildings, machinery, and fixtures which, in
 23 the determination of the state department of revenue, is
 24 used by a new industry during the first three-~~(3)~~ years of
 25 operation not having been assessed prior to July 1, 1961.

1 within the state of Montana. New industry shall mean any
 2 person, corporation, firm, partnership, association, or
 3 other group which establishes a new plant or plants in this
 4 state for the operation of a new industrial endeavor, as
 5 distinguished from a mere expansion, reorganization, or
 6 merger of an existing industry or industries. Provided,
 7 however, that new industrial property shall be limited to
 8 industries that manufacture, mill, mine, produce, process
 9 or fabricate materials, or do similar work in which capital
 10 and labor are employed and in which materials unserviceable
 11 in their natural state are extracted, processed or made fit
 12 for use or are substantially altered or treated so as to
 13 create commercial products or materials; industries that
 14 engage in the mechanical or chemical transformation of
 15 materials or substances into new products in the manner
 16 defined as manufacturing in the 1972 Standard Industrial
 17 Classification Manual, prepared by the United States office
 18 of management and budget, ~~and in~~ In no event shall the term
 19 new industrial property be included to mean property used in
 20 mining operations or by retail or wholesale merchants,
 21 commercial services of any type, agriculture, trades or
 22 professions. New industrial property does not include a
 23 plant which will create an adverse impact on existing state,
 24 county, or municipal services. The department shall
 25 promulgate regulations for the determination of what

1 constitutes an adverse impact taking into consideration the
 2 number of people to be employed and the size of the
 3 community in which the location is contemplated. Once the
 4 department has made an initial determination that the
 5 industrial facility qualifies as new industrial property,
 6 the department shall then upon proper notice hold a hearing
 7 to determine if the new industrial classification should be
 8 retained by the property. The local taxing authority may
 9 appear at the hearing, and it also may waive its objection
 10 to retention of this classification if the industry agrees
 11 to the prepayment of taxes sufficient to satisfy tax
 12 requirements created by the location and construction of the
 13 facility during construction period.

14 In the event of a prepayment of taxes, the maximum
 15 amount or prepayment shall be the amount without the
 16 application of the Class 7 (a) to such property.

17 If a major new industrial facility qualifies under
 18 Class 7 (a) the reduction of its yearly payment of property
 19 taxes for reimbursement of its prepaid taxes as provided for
 20 in section 34-41-105, R.C.M. 1947, shall not begin until the
 21 Class 7 qualification expires. And provided further, that
 22 new industrial property shall not be included to mean
 23 property which is used or employed in any industrial plant
 24 which has been in operation in this state for three (3)
 25 years or longer. Any person, corporation, firm, partnership,

1 association or other group seeking to qualify its property
 2 for inclusion in this class shall make application to the
 3 state department of revenue in such manner and form as may
 4 be required by said department.

5 (b) Business inventories. Business inventories shall
 6 include goods intended for sale or lease in the ordinary
 7 course of business, and shall include raw materials and work
 8 in progress with respect to such goods, but shall not
 9 include goods actually leased or rented on the lien date, or
 10 mobile homes held by a dealer or distributor as a part of
 11 his stock in trade.

12 (c) Air pollution control equipment as defined in
 13 section 69-3923.

14 (d) A capital investment in a recognized nonfossil
 15 form of energy generation, to the extent provided under
 16 section 84-7403.

17 Class Eight. (a) Any improvement on real property,
 18 trailers affixed to land or mobile home belonging to any
 19 person who qualifies under any one or more of the
 20 hereinafter set forth categories, with appurtenant land not
 21 exceeding five (5) acres, which together have a market value
 22 of not more than twenty-seven thousand five hundred dollars
 23 (\$27,500), which dwelling is owned or under a contract for
 24 deed, and which is actually occupied for at least ten (10)
 25 months per year as the primary residential dwelling of:

1 (1) a widow sixty-two (62) years of age or older,
 2 whether with or without minor dependent children, who
 3 qualifies under the income limitations of (4), or

4 (2) a widower sixty-two (62) years of age or older,
 5 whether with or without minor dependent children, who
 6 qualifies under the income limitations of (4), or

7 (3) a widow or widower with minor or dependent
 8 children regardless of age, who qualifies under the income
 9 limitations of (4), or

10 (4) a recipient or recipients of retirement or
 11 disability benefits whose income from all sources is not
 12 more than six thousand dollars (\$6,000) for a single person
 13 and six thousand eight hundred dollars (\$6,800) for a
 14 married couple total per annum whether said dwelling is
 15 occupied by a single person or a married couple. Provided,
 16 further, that one who applies for classification of property
 17 under this class must make an affidavit to the state
 18 department of revenue on a form as may be provided by the
 19 state department of revenue supplied without cost to the
 20 applicant, as to his income, if applicable, as to his
 21 retirement benefits, if applicable, or, as to his marital
 22 status, if applicable, and to the fact that he or she
 23 actually occupies or maintains as his or her primary
 24 residential dwelling, such land and improvements with right
 25 of the county welfare board to investigate the applicant, on

1 the completion of the form, as to answers given on the form.
 2 Provided, further, the assessed value of said property shall
 3 not be increased during the life of the recipient of
 4 retirement benefits or widow or widower covered under this
 5 class, unless the owner-resident makes a substantial
 6 improvement in the dwelling. For the purposes of the
 7 affidavit required for classification of property under this
 8 class, it shall be sufficient if the applicant signs a
 9 statement swearing to or affirming the correctness of the
 10 information supplied, whether or not the statement is signed
 11 before a person authorized to administer oaths, and mails
 12 the application and statement to the department of revenue.
 13 This signed statement shall be treated as a statement under
 14 oath or equivalent affirmation for purposes of section
 15 94-7-203, R.C.M. 1947, relating to the criminal offense of
 16 false swearing.

17 (b) A capital investment in a building for an energy
 18 conservation purpose, to the extent provided under section
 19 84-7403.

20 Class Nine. The incremental increase in the value of
 21 real estate attributable to repairing, maintaining or
 22 improving existing improvements.

23 Class Ten. The annual gross proceeds of coal mines
 24 using the strip mining method.

25 Class Eleven. Centrally assessed utility allocations

1 after deductions of locally assessed properties and except
 2 as provided in Class Two for rural telephones and Class Five
 3 (a) for cooperatives, and all other property not included in
 4 the ten (10) preceding classes.*

-End-

STATE OF MONTANA

REQUEST NO. 385-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 378 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

This bill removes property used in mining from the definition of new industrial property.

ASSUMPTIONS

No mining property is currently classified as new industrial property (Class 7). Therefore, there would be no impact on current revenues. The impact would be on new mining operations. The tax base would be increased by a larger amount under this proposal than it would be in absence of this bill. For the first 3 years the taxable value of the new industrial mining property would be 4 1/2 times the value of such property under current law.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Dwyer for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-77

Approved by Committee
on Taxation

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13 areas, or to rural areas and cities and towns provided that
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15 (800) persons or less; and provided further, that the
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