SENATE BILL NO. 241

Introduced: 01/21/83

Referred to Committee on Taxation: 01/21/83

Hearing: 2/8/83

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

2nd Reading: 03/03/83 3rd Reading: 03/04/83

Transmitted to House: 3/4/83

Referred to Committee on Taxation: 03/07/83

Hearing: 3/14/83

Died in House Committee

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INTRODUCED BY Leve Safe Kitch Bookon

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
HONIANA; 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 in 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 <u>at least</u> 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

1 United States.

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(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-parenty-subsidiaryy-or
affiliate-of-which-50%-or-more-is-owned-or-controlled-by-the
sume-persony-corporationy-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 eerperation 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

eligibility for the credit."

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2 Section 3. Section 15-31-126, MCA, is amended to read:
3 "15-31-126. Limitation. This credit is available only
4 to those new and expanding corporations manufacturers that
5 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) "Opportment" 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%

1 or at least five, whichever is less.

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(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 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

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- the individuals who are liable for payment of the tax.
- 2 NEW SECTION. Section 8. Limitation. The credit
 3 provided for in [section 7] is available only for new and
 4 expanding manufacturers that provide jobs within the state
- 5 of montana.
- 6 NEW SECTION. Section 9. Department duties. The department shall determine the eligibility of an individual for the credit provided for in [section 7], promulgate
- 9 rules, prepare forms, maintain records, and perform other
- duties necessary to carry out [sections 6 through 10].
- 11 <u>NEW SECTION.</u> Section 10. Carryover. (1) The tax
- 12 credit provided for in [section 7] may not exceed the
- 13 individual's tax liability for the taxable year.
- 14 (2) Any part of the tax credit allowed by [section 7]
- 15 that was not taken because of the limitation contained in
- 16 subsection (1) may be carried forward for up to 10 taxable
- 17 years. The carryover may not result in a credit in excess
- of the individual's tax liability for any taxable year.
- 19 Section 11. The Department of Revenue shall amend Rule
- 20 42.23.511, Administrative Rules of Montana, to read:
- 21 "42.23.511 CKEDIT FOR NEW OR EXPANDING CORPORATIONS
- 22 <u>MANUFACTURERS</u> (1) Sections 15-31-124 through 15-31-127 <u>and</u>
- 23 <u>[section 5]</u>, MCA, as amended, allow a tax credit equal to 1%
- 24 of wages paid by a new or expanding corporation
- 25 <u>manufacturer</u>. Any corporation <u>manufacturer</u> seeking credit

- under 15-31-124 through 15-31-127, MCA, shall conclusively
- 2 demonstrate its eligibility to the department. The
- 3 department's decision shall be final.
- 4 (2) Each corporation <u>manufacturer</u> seeking a credit
- 5 under 15-31-124 through 15-31-127, MCA, shall show:
- 6 (a) that it-is-a-corporation-prereqistered-pursuant-to
- 7 Fitle-35y-chapter-ly-MGAy-as--amended the manufacturer is
- 8 preregistered as a valid existing business under the laws of
 - <u>this state;</u>
- 10 (b) that it was registered for the first time during
- 11 the tax year for which the first credit is claimed or that
- 12 the industry meets the definition of expanding per
- 13 15-31-124. MCA, as amended; and
- (c) that the-corporation-is-engaged-in-manufacturing
- 15 the applicant is a manufacturer as that term is defined in
- 16 15-31-124, MCA+-and
- 17 tdj--that-the-product-manufactured-is-oney-which--orior
- 18 to-its-production-by-the-corporation-was-not-then-currently
- 19 produced-in-this-state."
- 29 Section 12. The Department of Revenue shall amend Rule
- 21 42.23.512, Administrative Rules of Montana, to read:
- 22 "42.23.512 PERIOD OF ELIGIBILITY (1) As used in this
- 23 section, period of eligibility means:
- (a) in the case of a new corporation manufacturer, the
- 25 consecutive 3-year period during which a credit may be

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in Montane with the start of manufacturing after all
planning, construction, and testing have been completed; or
(b) in the case of an expanding corporatio
manufacturer, the consecutive 3-year period during which a
credit may be claimed, commencing with preparationof
manufactureoftheproduct the start of expanded
manufacturing following the completion of all planning
construction, and testing required for the expansion.

claimed, commencing from-the-initial-act-of-doing-business

(2)—A—corporation—seeking—tax—credit—shall-not—be allowed—credit—after—the—expiration—of—the—period—of eligibilitys——fhis—period—is—limited—to—the—3—consecutive years—following—initial—activitys—A—corporation—may—claim credit—for—the—first—year—and—third—or—first—and—second years—of—the—3—year—periods

(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:

23 #42.23.513 MANUFACTURING DEFINED (1)-A-manufacturing
24 corporation-is-one-engaged-in-the-mechanical--or-chemical
25 transformation-of-materials-or-substances-into-new-products**

(2)—The-materials-processed-by—manufacturing—include products—of—agriculturey—forestryy—fishingy—miningy—and quarryingy—as—well—as—products—of—other—manufacturersy——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—manufacturingy—for—exampley—the—product—of—the copper—smelter—is—the—raw—material—used—in—electrolytic refineries;—refined—copper—vis—the—raw—material—used—by—copper—wire—mills;—and—copper—wire—is—the—raw—material—used—by—certain—electrical—equipment—manufacturers

(3)--The-moterials-used-by-monufacturing-establishments
may-be-purchased--directly--from--the--purchasersy--obtained
through---customary---trade--channelsy--or--secured--without
recourse-to-the-market-by-trunsferring-the-product-from--onestablishment--to-another-which-is-under-the-same-ownerships

Manufacturing-production-isusuallycorriedonforthe
wholesalemarketyfor-interplant-transfery-or-to-order-for
industrialusersyratherthanfordirectsaletothe
domestic-consumer=

this decision shall be final.

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

- (a) milk bottling and pasteurizing;
- 13 (a) 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;
- 18 (d) publishing;

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- 19 (e) ready-mixed concrete production;
 - (f) leather converting; -
 - (4) logging;
- 22 (h) wood preserving;
- 23 (i) various service industries to the manufacturing 24 trade, such as typesetting, engraving, plate printing, and 25 preparation of electrotyping and stereotype plates, but not

1	blueprinting or	photocopying	services;
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- 2 (j) electroplating, plating, metal heat treating, and3 polishing for the trade;
 - (k) lapidary work for the trade:
 - (1) 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-Hanual-of-1972y-and-are--thus---not

 classified---as--manufacturings---A---few--of---the--important

 examples-ares
 - (a)—agriculturey—forestryy—and—fishing—(Processing—on farms—is—not-considered—manufacturing—if—the—raw—moteriols are—grown—on—the—farm—and—if——the—manufacturing—activities are—on—a—small—scale—without—the—extensive—use—of—paid labory——Other—exclusions——are——custom——grist——millingy threshingy—and—cotton—ginnings);
 - {b}--mining--with--the--dressing--and--beneficiating-of
 orest-the--breakingv--washingv--and--grading--of--coalt--the
 crushing--and-oreaking-of-stone;-and-the-crushingv-grindingv
 or-otherwise-preparing-of-sand-and--gravel--and--nonmetallic
 chamical---and---fertilizer---minerals---other--than--barite
 classified-as-mining;
 - the-site-of-a-construction-by-contractors-are-not-considered

1	manufacturingsThe-prefabrication-of-sheet-metaly-concretey
2	endterrazzoproductsandsimilar-construction-materials
3	shall-be-classified-as-manufacturings);
4	(d)wholesaleandretailtrodeywithcorporations
5	engagedinthefollowingtypes-of-operations-included-in
6	wholesale-or-retail-trades
7	<pre>fi) cutting-and-selling-purchased-carcasses;</pre>
8	(ii)preparing-feed-at-grain-elevators-and-farm-supply
9	stores:
10	(iîi)stemmingle oft obaccoutwholesale
11	estab lishments;
12	(îv) production-of-wiping-rags;
13	(v)breakingofbulkandredistribution-in-smaller
14	lots, including packaging, repackaging, or bottling products
15	such-as-liquors-or-chemicals;
16	<pre>tvi)primarily-selling-products-to-the-generalpublic</pre>
17	whichpre-produced-on-the-same-premises-from-which-they-are
18	soldy-such-as-bakeriesy-condy-storesy-ice-cream-parlorsy-and
19	custom-tailors;
20	(e)services-with-tire-retreading-and-rebuilding-sign
21	painting-ond-lettering-shipsy-and-the-productionofmotion
22	picturefilmsclassifiedasservicesandwithrepair
23	activitiesy-with-thefollowingexceptionsyelassifiedns
24	services.
25	(i)ship-and-boat-building-and-repair:

1	{ii}therebuildingofmachinery-and-equipment-on-
2	factory-bosis;-and
3	(iii)machine-shop-repair**
4	Section 14. The Department of Revenue shall amend Rule
5	42.23.514. Administrative Rules of Montana, to read:
6	"42.23.514 NEW EBREBRATION MANUFACTURER (1) A new
7	corporation manufacturer is oner
8	(a)whichhasneverdone-business-in-Mantana-i n-any
9	corporation-prior-to-the-taxable-year-for-whichthecredit
10	isclaimed;ucorporationwhichreported-ur-should-have
11	reported-any-state-or-federal-agency-orofficerouthorized
12	toeollecttaxesmeasuredbynetincomeshallnot-pe
13	eligible;
14	(b)whichmanufacturesa-productwhichwasnot
15	manufacturedinMontanapriortothattime which: on a
16	particular site within Montana. is either building a new
17	plant or reopening an existing plant with the effect of net
18	jobs new to the locality.
19	(2) A corporation manufacturer reorganized pursuant to
20	Title 35, chapter 1, MCA, as amended, shall not be eligible
21	for credit under 15-31-124 through 15-31-127 and [section
22	5], MCA.
23	(3)Nocreditshallbeallowedif50%ofa
24	corporation*sstockisownedorcontrolledby-the-same
25	individualy-corporationy-or-associationofindividualsor

corporations——In—this—instancey—the-department-presumes dependent—corporate—statusy——If—less—than—50%——of——a corporation*s—stock—is—owned—or—controlled—by—the-same individual-or—corporation—or—association—of—individuals—or corporationsy——an—applicant—for—credit—under—15-31—124 through—15-31—127y—MCAy—shall—demonstrate—its—independent corporate—existence—to—the-satisfaction—of—the-department before—credit—may—be-grantedy

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(4)--A--corporation--formed--us--a--joint---venturey combinationy--subsidiaryy--parenty-affiliatey-mergery-or-any other--kind--of--cooperative--action--between--two--or--more corporations---which---connot---demonstrate--an--independent corporate--existence--shall--not--be--accepted--as---o--new corporation--by--the--department--for--purposes-of-15-31-124 through-15-31-124-M64*

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

1 amended; and

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- 2 (c) has at all times prior to claiming credit under
 3 15-31-124 through 15-31-127 and [section 5], MCA, complied
 4 with the requirements of Title 15, chapter 31, MCA, as
 5 amended+-and
 - (d)-manufactures---a--product--during--the--period--of
 eligibility-which-was-not-manufactured-in-Montana--prior--ta
 that-time.
- (2) Expanding means to enlarge the facilities or to 9 10 diversify the products of a corporation which has done 11 business in Montana at least 1 year prior to claiming credit 12 under 15-31-124 through 15-31-127 and [section 5]. MCA. by 13 increasing total full time jobs attributable to Montana by 30%--er--mere at least 30% or at least five, whichever is 14 less. The increase shall be measured as a percentage 15 16 increase of full time jobs held with the corporation 17 manufacturer in Montana or attributable to Montana. The 13 department shall recognize only full time jobs in 19 determining eligibility for credit under 15-31-124 through 20 15-31-127 and [section 5], MCA."
- 21 Section 16. The Department of Revenue shall amend Rule 22 42-23-516, Administrative Rules of Montana, to read:
- 23 ***42.23.516 COMPLIANCE WITH CERTAIN STATUTES REQUIRED
 24 (1) A new or expanding corporation manufacturer which fails
 25 to comply with the provisions of Title 15, chapter 31, MCA,

1	as amended, and Title 35, chapter 1, MCA, as amended, during
2	the period of eligibility shall lose its eligibility to
3	claim credit under 15-31-124 through 15-31-127 and (section
4	2], MCA-"

- 5 Section 17. The Department of Revenue shall amend Rule 6 42.23.518, Administrative Rules of Montana, to read:
 - expanding corporation manufacturer seeking credit under 15-31-124 through 15-31-127 and [section 5], 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 eorporation manufacturer 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 manufacturer has not done business for a 5-year period, employee lists for all years of operation shall be submitted. A new corporation manufacturer shall be exempt from this requirement.
 - (3) The lists shall include:

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- 21 (a) all employees of the existing and expanded 22 eorporation manufacturer;
- 23 (b) their employment status clearly set out (whether
 24 full, half, or part-time);
- 25 (c) the position with the corporation <u>firm;</u>

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- (e) the type of product produced by those employees
 employed by the expanded portion of the corporation firm;
 and
- 5 (f) the number of years the employee has been 6 employed.
 - Section 1d. The Department of Revenue shall amend Rule 42.23.519. Administrative Rules of Montana. to read:
- 9 "42.23.519 DETERMINATION OF NEW JOBS (1) The intent of
 10 15-31-125, MCA, as amended, is to grant credit upon wages
 11 paid to new employees. The department shall determine from
 12 the information submitted if there has been at least a 20%
 13 increase in the number of jobs or an increase of at least
 14 five jobs and that these positions are filled by newly-hired
 15 personnel.
- 16 (2) The only employees which shall be counted in
 17 determination of credit are those who*
- 18 tot were not employed by the eorporation manufacturer
 19 within 5 years of expansion—and
- 20 (b)--are-employed-in-production-of-the-new-product.
- 21 (3) Any employee who was employed by an existing
 22 corporation manufacturer shall not be counted as a new
 23 employee of the expanded corporation manufacturer if
 24 employment occurred within 5 years of the expansion.
- 25 (4)-No--employee---who---was---employed--in--existing

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operations-andwhoforanyreasonisemployedinthe
expandedoperationsshollbecountedforpurposesof
determining-eliaibilitys

(5)--Those-employees-who-participated-in--the--planning and--preparation--of--the-expansion-of-the-corporation-shell not--be--counted--as--new---employees---of---the--expandee corporationsy--unlessy-in-facty-these personnel-can-be-shown to-have-been-hired-specifically-for-the-expansion-far--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:

#42.23.529 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, co read:

1	"42 ₂ 23 ₂ 521 AVAILABILITY OF TAX CREDIT (1) A claim for
2	credit may be made <u>first</u> as a new corporation-or
3	manufacturer and then, later, as expansion occurs, as an
4	expanding corporation:no-corporation-may-qualify-as-bothw
5	Ifacorporationhasbeengrantedcreditasanew
6	c orporationy-it-may-not-subsequently-be-granted-credit-as-a n
7	expanding-corporation manufacturer.

- (2) A corporation <u>manufacturer</u> may claim credit due under 15-31-124 through 15-31-127 <u>and [section 5]</u>, 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, -qo-not-apply-in-taking-this-credit Carryovers, however, are available as set forth in [section 5]; MCA."
- 21 Section 21. The Department of Revenue shall amend Rule 22 42.23.522. Administrative Rules of Montana, to read:
 - "42.23.522 HdSN CREDIT MAY BE CLAIMED (1)--The--credit

 available--under--15-31-124--through--15-31-127v-M6Av-may-be

 claimed-for-the-taxable-year-the-activity-for--which--credit

This act

i-a-claimed-occurred*-Gredit-may-not-be-accumulated*.nand-if-a
corporation--does-not-claim-credit--for-which-it-is-eligible
during-a-taxable-yeary-that-credit-is-lost*

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+2}--Eligibility-for-the-tax-credit--expires--with--the
corporation^s-taxable-year*

- 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."
- 12 <u>NEW SECTION</u> Section 22. Repealer. Rule 42.23.517.

 13 Administrative Rules of Montana, is repealed.

NEW SECTION. Section 23. Applicability.

- 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,
- of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to section 5.
- 20 (2) Sections 6 through 10 are intended to be codified 21 as an integral part of Title 15, chapter 30, and the 22 provisions of Title 15, chapter 30, apply to sections 6 23 through 10.

-End-

STATE OF MONTANA

		212-83
REQUEST	NO.	

FISCAL NOTE

Form BD-15

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

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1 - 27 - 83

48th Legislature SB 0241/02

Approved by committee on Taxation

1	SENATE BILL NO. 241
2	INTRODUCED BY LEE, FABREGA, KOLSTAD,
3	GOODOVER, IVERSON, GAGE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6	TAX CREDIT AVAILABLE FOR NEW OR EXPANOING MANUFACTURERS
7	INDUSTRY: AMENDING SECTIONS 15-31-124 THROUGH 15-31-127.
×	MCA; DIRECTING THE AMENDMENT OF RULES 42.23.511 THROUGH
- 3	42.23.516 AND 42.23.518 THROUGH 42.23.522, ADMINISTRATIVE
10	RULES OF MONTANA; REPEALING RULE 42.23.517. ADMINISTRATIVE
11	RULES OF MONTANA; AND PROVIDING AN APPLICABILITY DATE.
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 15-31-124, MCA, is amended to read:
15	#15-31-124. New or expanded industry manufacturar
16	INDUSTRY credit definitions. As used in 15-31-124 through
17	15-31-127, the following definitions apply:
3.8	(1) "Department" means the department of revenue.
10	(2) "Expanding" means to expand or diversify a present
20	INCUSTRIAL operation to increase total full-time jobs by at
21	least 30% or more at least five AQBS: whichever is less.
22	(3) "Manufecturing" <u>"Manufacturer"</u> meansthe <u>any</u>
23	<u>busintsstbat-engages-in-o</u> -process-of-mechanical-or-chemical
24	transformation-of-materials-or-substances-into-new-products+

as--described--in--the--standard--industrial--classification

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1	manual-of-1972-by-the-office-of-management-and-budget-of-the
2	UnitedStates* (A) "NEW INDUSTRY" MEANS A PERSON
3	CORPURATION: EIRM: PARINERSHIP: ASSOCIATION: DR DIHER GROUP
4	THAT IS ESTABLISHED IN MONTANA FOR THE OPERATION OF A NEW
5	INQUSTRIAL_ENGEAYOR. INCLUDING THE EXPANSION DE AN EXISTING
6	INOUSIRY.
7	(B) NEW INDUSTRY INCLUDES ONLY INDUSTRIES THAT:
8	(11_ MANUEACTURE: HILL: MINE: PRODUCE: PROCESS: DE
9	EABRICATE_MATERIALS:
10	(II) DO SIMILAR WORK - EMPLOYING CAPITAL AND LABOR - IN
11	WHICH MATERIALS UNSERVICEABLE IN THEIR NATURAL STATE ABO
12	EXIRACIED. PROCESSED. OR MADE FILEOR USE OR ARE
13	SUBSIANTIALLY ALTERED OR TREATED SO AS TO CREATE COMMERCIAL
14	PRODUCIS_OR_MATERIALS:_OR
15	(III) ENGAGE IN THE MECHANICAL OR CHEMICAL
16	TRANSFORMATION_DE_MATERIALS_OR_SUBSTANCES_INTO_NEH_PRODUCTS
17	IN_IHE_BANNER_DEEINEQ_AS_MANUEACTUBING_IN_THE_1972_STANDARD
18	INDUSTRIAL CLASSIFICATION MANUAL PREPARED BY THE UNITED
19	STATES_DEFICE_DE_MANAGEMENT_AND_BUDGET.
20	(C) MEW INDUSTRY DOES NOT INCLUDE RETAIL OR WHOLESALE
21	MERCHANTSCOMMERCIAL_SERVICES_DE_ANY_TYPEAGRICULTURE.
22	IRADES.OR_PROFESSIONS.
23	(4)=Newcorporation=-means-a-corporation-engaging-in
24	monufacturingforthefirsttimeinthisstateand
25	manufacturingaproductnotcurrentlymonufacturedor

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substantially-similar-to-a-product-currently-manufactured-by
that-corporation-or-any-affiliate-corporation-in-this-state;
it-does-not-include-reorgantzing-an-existing-corporation--in
this--state--or--the--creation--of--a-parenty-subsidiaryy-or
affiliate-of-which-50%-or-more-is-owned-or-controlled-by-the

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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 INDUSTRY 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 INDUSTRY or the first 3 years of expansion of an expanding corporation manufacturer INDUSTRY, 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 monufacturer INDUSTRY+ only those wages paid in support of the expansion are considered in ascertaining the credit. The IDIAL payroll and number of jobs IN MONIANA of the corporation manufacturer INDUSTRY in the 12-month 36-MBNTH period OR THE PERIOD OF OPERATION OF THE INDUSTRY IN MONIANA. WHICHEYER IS LESS. immediately preceding the expansion are averaged to determine eligibility for the credit.*

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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 INQUSTRIES THAT INCREASE TOTAL FULL-TIME JUBS

BY AT LEAST 30% OR AT LEAST FLYE JUBS, WHICHEVER IS LESS:

within the state of Montana."

7 Section 4. Section 15-31-127, MCA, is amended to read:
8 #15-31-127. Department duties. The department shall
9 determine the eligibility of a-corporation manufacturer AE
10 INDUSTRY for this credit, promulgate rules, prepare forms,
11 maintain records, and perform other duties necessary to
12 carry out 15-31-124 through 15-31-127.**

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YEW SECTION: Section 5. Carryover. (1) The tax credit provided for in 15-31-125 may not exceed the manufacturer*s

INDUSTRY'S tax liability for the taxable year.

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

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

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

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	(2)	™ Expa	nding= #	eans to	expand	or div	ersify	a pres	sent
	operation	to	increase	total	full-tí	me jobs	by at	least	30%
,	or at lea	st fiv	e <u>1092</u> •	whichev	er is l	955•			

(3) Thendracturer Theonstany Dustress that Tengages The
aprocessofmechanicalorchemicaltransformationo
meterials-or-substances-into-new-productsy-asdescribedi
the-standard-industrial-classification-manual-of-1972-by-th
officeofmanagementandbudgetoftheUnited-States
MESTE ** MOITABOGROOT MESTE
PARINERSHIP . ASSOCIATION . OR OTHER GROUP THAT IS ESTABLISHE
IN_USINIADA_EOR_THE_OPERATION_DE_A_NEW_INDUSTRIAL_ENDEAVOR
INCLUDING THE EXPANSION OF AN EXISTING INDUSTRY.

(8) _ NEH_INQUSTRY_INCLUDES_ONLY_IHOSE_INDUSTRIESIHAI
(I) MANUFACTURE MILL MINE PRODUCE PROCESS O
EAHRICATE MATERIALS:

	(III) DO SIMILAR WORK. EMPLOYING CAPITAL AND LABOR. IN
	HUICH MATERIALS UNSERVICEABLE IN THEIR NATURAL STATE ARE
•	EXIRACIED. PROCESSED. 09 MADE FIT FOR USE OR ARE
	SUASIANITALLY_ALTERED_DR_IREATED_SO_AS_ID_CREATE_COMMERCIAL
	ORGOVETE OR MITERALICE OR

20	PEODUCIS_OR_MATERIALS:_OR
21	(III) ENGAGE IN THE MECHANICAL OR CHEMICAL
22	IRANSEORMATION_OF_MATERIALS_OR_SUBSTANCES_INTO_NEW_PRODUCTS
23	IN_THE_MANNER_DEEINED_AS_MANUFACTURING_IN_THE_1972STANDARD
24	INDUSTRIAL CLASSIFICATION MANUAL PREPARED BY THE UNITED
25	STATES DEFICE DE MANAGEMENT AND BUDGET.

1	TCJN	EM INDUSIBA	DDES_NOT_1	NCLUDE_R	EIAIL_O	RWHOLESA	L
2	MERCHANIS.	COMMERCIAL	_SERVICES_	DE ANY	_IYPE.	AGRICULIUR	E,

IRADES . OR PROFESSIONS.

4	MEN_SECTION. Section 7. Determination of tax credit.
5	The individual liable for the payment of the tax imposed by
6	15-30-103 on income derived from a new or expanding
7	manufacturer may receive a credit against the tax imposed by
8	15-30-103. The amount of the credit is based on a
9	percentage of wages paid its new employees within this state
0.1	for a period of 3 years as follows: for the first 3 years of
11	operation of a new manufacturer or the first 3 years of
12	expansion of an expanding manufacturer, a credit of 1% of
13	the total new wages paid in this state, as wages are defined
14	in 39-51-201. In determining total wages for an expanding
L5	manufacturer, only those wages paid in support of the
16	expansion are considered in ascertaining the credit. The
L 7	IDTAL payroll and number of jobs IN MONIANA of the
l B	manufacturer in the 12-month 16-MONIH period OR_IHE_PERIOD
19	QE _ OPERATION DE THE INDUSTRY IN MONIANA. WHICHEVER IS LESS.
20	immediately preceding the expansion are averaged to
21	determine eligibility for the credit. If more than one
22	individual is liable for the payment of the tax imposed by
23	15-30-103 on income derived from a new or expanding
24	manufacturer, the credit must be promated among the
25	individuals who are liable for payment of the tax.

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YEM_SECTION. Section 8. Limitation. The credit provided for in [section 7] is available only for IO_THOSE new and expanding manufacturers-that_provide-jobs_INDUSTRIES IHAT_INCREASE_TOTAL_EULL=TIME_JOBS_BY_AT_LEAST_30%_OR_AT_LEAST_FIVE_JOBS. WHICHEVER_IS_LESS. within the state of Montana.

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- 7 NEW SECTION. Section 9. Department duties. The 8 department shall determine the eligibility of an individual 9 for the credit provided for in [section 7], promulgate 10 rules, prepare forms, maintain records, and perform other 11 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 Hontana, to read:
- 22 #42_23_511__CKEDII_FOR_NEW_OR_EXPANDING_EGRPGRATIONS
 23 MANUFECTURERS_INDUSTRIES (1) Sections 15-31-124 through
 24 15-31-127 and [section 5], MCA, as amended, allow a tax
 25 credit equal to 1% of wages paid by a new or expanding

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- 1 composation manufacturer INDUSTRY Any composation
 2 manufacturer INDUSTRY seeking credit under 15-31-124 through
 3 15-31-127, MCA, shall conclusively demonstrate its
- 4 eligibility to the department. The department's decision
- 6 (2) Each corporation manufacturer INDUSTRY seeking a
 7 credit under 15-31-124 through 15-31-127, MCA, shall show:

shall be final.

- 8 (a) that it-is-e-corporation-preregistered-pursuant-to
 9 Fitte-35y-chapter-ly-M6Ay-as--amended the manufacturer is
 10 preregistered as a valid existing business under the laws of
 11 this state:
- 12 (b) that it was registered for the first time during 13 the tax year for which the first credit is claimed or that 14 the industry meets the definition of expanding per 15 15-31-124, MCA, as amended; and
- 16 (c) that the corporation is engaged -- in manufacturing
 17 the applicant is a manufacturer NEW OR EXPANDING INDUSTRY as
 18 that term is defined in 15-31-124. MCAt-and
- 19 (d)--that--the-product-manufactured-is-oney-which-prior
 20 to-its-production-by-the-corporationy-was-not-then-currently
 21 produced-in-this-state.**
- 22 Section 12. The Department of Revenue shall ameno Rule 23 42.23.512. Administrative Rules of Montana, to read:
- 24 *42.23.512 PERIOD_OF_ELIGIBILITY (1) As used in this 25 section, period of eligibility means:

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(a) in the case of a new corporation manufacturer INDUSTRY, 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 poling BUSINESS after all planning, construction, and testing have been completed; or

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- (b) in the case of an expanding corporation manufacturer INDUSTRY, the consecutive 3-year period during which a credit may be claimed, commencing with preparation of manufactures OPERATIONS following the completion of all planning: construction: and testing required for the expansion.
- t2)--A--corporation--seeking--tax--eredit--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-
- t37121 Those periods of time before actual production of--e--new--product <u>BEGINS</u>, during which support, planning, construction of facilities, and other preparatory activities occur, shell may not be included in determining the period of eligibility.**
- Section 13. The Department of Revenue shall amend Rule

1	42-23-513,	Administrative	Rules	of	Montana,	to	read:

"42_23_532_MANUFACTURING_DEFINED (†)-A-manufacturing corporation-is-one-engaged-in-the-mechanical--or--chemical transformation-of-materials-or-substances-into-new-products* The---manufacturing--factlities--are--usually--described--as plantsy-factoriesy-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 manufacturingy-if-the-new-product-is-neither-a-structure-nor other-fixed-improvementy--included-in-this-definition-is-the blending--of--materials---such-as-lubricating-oilsy-plasticsy resinsy-or-liquors*

t2)--The-materials-processed-by--manufacturing--include products--of--agriculturey--forestryy--fishingy--miningy-and quarryingy-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-manufacturings--For--exampley--the--product--of--the copper--smelter--is--the--raw--material-used-in-electrolytic refineriesy-refined-copper--is--the--raw--material--used--by copper--wire-mills;-and-copper-wire-is-the-raw-material--used by--certain-electrical-equipment-manufacturers*

t3)--The-materials-used-by-manufacturing-astablishments

1	may-be-purchaseddirectlyfromthepurchasersyobtained
2	throughcustomarytradechannelsorsecuredwithout
3	recourse-to-the-market-by-transferring-the-product-fromone
4	establishmentto-another-which-is-under-the-same-ownership:
5	. Menufacturing-productionisusuallycarriedonforthe
6	wholesatemarketyfor-interplant-transfery-or-to-order-for
7	industrialusersratherthonfordirectsaletothe
8	domestic-consumers
9	†4)£££ In instances where a classification between
0	monufacturing-andotherdivisionsofthe19725tandard
1	IndustrialClassificationManualsystem <u>ELIGIBLE_NEW_AND</u>
.2	EXPANDING INDUSTRIES AND OTHER BUSINESSES is difficult, the
13	department shall classify according to its best judgment.
4	This decision shall be final.
.5	(5)121The-following-activitiesv-althoughnotalways
.6	considered_es=manufacturing+-are-so-classified+
.7	{a}milk-bottling-and-posteurizing;
8	f b}fresh-fish-pac keging;
9	<pre>fe}appare?jobbingfassigningofmateria?sto</pre>
0	contractfactoriesorshopsforfabricationorother
1	contractoperations)aswellas-contracting-on-materials
2	owned-by-others;
3	(d)publishing:
4	te)ready-mixed-concrete-production:
5	ff)leather-convertings

1	{g}}ogging t
2	th}wood-preservingt
3	(i)various-service-industriestothemanufacturing
4	tradevsuchas-typesettingv-engravingv-plate-printingv-and
5	preparation-of-electrotyping-and-stereotype-plates,-butnot
6	blueprinting-or-photocopying-services;
7	(j)electroplatingplatingmetal-heat-treatingand
8	polishing-for-the-trade;
9	{k}lopidory-work-for-the-trades
10	{}}fabricating-of-signs-and-advertising-displays=
11	(6)There-are-also-some-manufacturing-typeactivities
12	performedbycorporationswhichare-primarity-engaged-in
13	activitiescoveredbyotherdivisionsoftheStandard
14	IndustrialClassificationManual-of-1972v-and-are-thus-not
15	cłassifiedasmanufacturingAfewoftheimportant
16	examples-are:
17	<pre>fa)ogricultureyforestryy-and-fishing-{Processing-on</pre>
18	forms-is-not-considered-manufacturing-if-therowmaterials
19	aregrownonthe-farm-and-if-the-manufacturing-activities
20	are-on-a-small-scalewithouttheextensiveuseofpaid
21	laborOtherexclusionsorecustomgristmillingy
22	threshingy-and-cotton-ginninge;;
23	<pre>tb)mining-withthedressingendbeneficiatingof</pre>
24	orestthebreakingywashingyandgradingofcosi;-the
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1	orotherwisepreparingof-sand-and-gravel-and-nonmetallic
2	chemicalandfertilizermineralsotherthanbarite
3	classified-es-mining;
4	<pre>{c}construction{fabricating-operations-performed-at</pre>
5	the-site-of-a-construction-by-contractors-are-not-considered
ó	manufacturingThe-prefabrication-of-sheet-metal-concretey
7	and-terrazzo-productsandsimilarconstructionmaterials
8	shall-pe-classified-as-manufacturings);
9	fdjwholesaleandretailtradeywithcorporations
10	engaged-in-the-following-typesofoperationsincludedin
11	wholes ale-or-retail-tradet
12	titcutting-and-selling-purchased-carcassest
13	<pre>fit}preparing-feed-at-grain-elevators-and-farm-supply</pre>
14	stores:
15	tiitstemmingleaftobaccoatwholesale
16	establishments;
17	(iv)production-of-wiping-rags;
19	(v)preaking-of-bulkandredistributioninsmaller
19	łatsy-including-packagingy-repackagingy-ar-bottling-products
20	such-es-fiquors-or-chemicals;
21	(vi)primarilyselling-products-to-the-genoral-public
22	which-ere-produced-on-the-same-premises-from-which-theyare
23	soldy-such-as-bakeriesy-condy-storesy-ice-cream-parlorsy-and
24	custom-taifors;
25	(e)services-with-tire-retreading-and-rebuildingsign

1	paintingandlettering-shipsy-and-the-production-of-motion
2	picturefilmsclassifiedasservicesandwithrepoir
3	activitiesywiththefollowingexceptionsy-classified-as
4	services+
5	fi)ship-and-boat-building-and-repair;
6	tit)the-rebuilding-of-machinery-andequipmentona
7	factory-basis;-and
8	{iii}machine-shop-repair*
9	Section 14. The Department of Revenue shall amend Rule
10	42.23.514, Administrative Rules of Montana, to read:
11	"42.23.514_NEW_GORPORATION:=ManufaGTURER_INDUSIRY_==
12	ELIGIBILITY (1)-A-new-corporation manufacturer-is-one+
13	{a}which-has-never-done-business-inMontonainony
14	corporationpriorto-the-taxable-year-for-which-the-credit
15	is-cinimed;-a-corporationwhichreportedorshouldhave
16	reportedanystate-or-federal-agency-or-officer-authorized
17	to-collecttaxesmeasuredbynetincomeshallnotbe
18	ettgibte;
19	{b}whichmanufacturesaproductwhichwasnot
20	manufactured-in-Montana-priortothattime which===0n==n
21	porticulor==aite==withio==Usotonox==ia=either=building=o=new
22	płant_or_respening_an_existing_płant_with_the_effect_ofnet
23	jobacoew-tectbachity*
24	127 A corporation manufacturer BUSINESS_OR_INDUSTRY

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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--cantrolled--by-the-same individualy-corporationy-or-association--of--individuals---or corporationsy---In--this--instancey--the-department-presumes dependent--corporate--statusy---If--less--than--50%---of----a corporation*s--stock--is--owned--or--controlled--by-the-same individual-or-corporation-or--association-of--individuals---or corporationsy---an--opplicant--for--credit--under--15-31-124 through-15-31-127y-M6Ay-shall--demonstrate--its--independent corporate--existence--to--the-satisfaction-of-the-department before-credit-may-be-granted*

tip--A--corporation--formed---as---joint---venturey
combinationy--subsidiaryy--parenty-affiliatey-mergery-or-any
other--kind--of--cooperative--action--between--two--or--more
corporations---which---connot---demonstrate--an--independent
corporate--existence--shall--not--be--accepted--as---a---new
corporation--by--the--department--for--purposes-of-15-31-124
through-15-31-127y-MGA*

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

"42.23.515_EXPANDING_EBREBRATION_MANUFACTURER_INDUSTRY

==_ELIGIBILITY (1) An expanding corporation manufacturer

INDUSTRY is one which:

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1 (a) was registered to do business in Montana at least
2 1 year prior to claiming a credit under 15-31-124 through
3 15-31-127 and (Section 51, MCA;

4 (b) has at all times prior to claiming credit under
5 15-31-124 through 15-31-127 and [section 5] MCA, complied
6 with the requirements of Title 35, chapter 1, MCA, no
7 amended; and

8 (c) has at all times prior to claiming credit under
9 15-31-124 through 15-31-127 and [section 5], MCA, complied
10 with the requirements of Title 15, chapter 31, MCA, as
11 amended t-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 fixe 1085: whichever is less. The increase shall be measured as a percentage increase of full time jobs held with the corporation manufacturer INCUSTRY in Montana or attributable to Montana. The department shall recognize only full time jobs in determining eligibility for credit under 15-31-124 through

- 1 15-31-127 and [section_5]. MCA.**
- Section 16. The Department of Revenue shall amend Rule
- 3 42.23.516, Administrative Rules of Montana, to read:
 - "42.23.516_COMPLIANCE WITH CERTAIN STATUTES REQUIRED
- 5 (1) A new or expanding corporation manufacturer INDUSTRY
- which fails to comply with the provisions of Title 15,
- 7 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
- 10 15-31-127 and [section 5], MCA.**
- 11 Section 17. The Department of Revenue shall amend Rule
- 12 42.23.518, Administrative Rules of Montana, to read:
- 13 442-23-518 SUBMISSION OF EMPLOYEE LISTS (1) An
- 14 expanding corporation manufacturer INDUSTRY seeking credit
- 15 gader 15-31-124 through 15-31-127 and [section 5], MCA,
- is shall submit accurate employee lists to the department, so
- 17 that the department may determine the percentage increase of
- 18 new jobs in the taxable year for which credit is claimed.
- 19 (2) In applicable instances, an expanding corporation
- 20 <u>manufacturer INDUSTRY</u> shall submit 5 years of lists in order
- 21 that an average employment figure be determined and the
- 22 number of new employees discovered. If a--corporation
- 23 manufacturer AN_INDUSTRY has not done business for a 5-year
- 24 period, employee lists for all years of operation shall be
- 25 submitted. A new corporation manufactures INCUSIRY shall be

-17-

- I exempt from this requirement.
- 2 (3) The lists shall include:
- 3 (a) all employees of the existing and expanded
- 4 corporation manufacturer INDUSTRY;
- 5 (b) their employment status clearly set out (whether
- 6 full, half, or part-time);
- 7 (c) the position with the corporation firm;
- (d) wages paid;
- 9 (e) the type of product produced by those employees
- 10 employed by the expanded portion of the corporation firm;
- 11 and
- 12 (f) the number of years the employee has been
- 13 employed.*
- 14 Section 18. The Department of Revenue shall amend Rule
- 15 42.23.519. Administrative Rules of Montana, to read:
- 16 #42<u>23.519 DETERMINATION OF NEW JOBS</u> (1) The intent of
- 17 15-31-125, MCA, as amended, is to grant credit upon wages
- 18 paid to new employees. The department shall determine from
- 19 the information submitted if there has been at least a 30%
- 20 increase in the number of jobs or an increase of at least
- 21 <u>five jobs</u> and that these positions are filled by newly-hired
- 22 personnel.
- 23 (2) The only employees which shall be counted in
- 24 determination of credit are those who+
- 25 ta) were not employed by the corporation manufacturer

INDUSTRY	within	5	years	of	expans	ion	-ond

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- fb)--are-employed-in-production-of-the-new-product.
- 3 (3) Any employee who was employed by an existing
 4 corporation manufacturer INDUSTRY shall not be counted as a
 5 new employee of the expanded corporation manufacturer
 6 INDUSTRY if employment occurred within 5 years of the
 7 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-cliqibilitys
 - (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 corporationsy--unlessy-in-facty-these-personnel-ean-be-shown to-have-been-hired-specifically-for-the-expansion-for--which credit--is--elaimed--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 Mantana, 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 o
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 $\hat{\mathbf{b}}$
the department."

- Section 20. The Department of Revenue shall amend Rule 42.23.521, Administrative Rules of Montana, to read:
 - "42.23.521_AVAILABILITY_DE_TAX_CREQII (1) A claim for credit may be made first as a new corporation—or manufacturer INDUSTRY and then. later. as expansion_occurs. as an expanding corporation—no-corporation—may—qualify—as bothw—If—a-corporation—has—been—granted—credit—as—an expanding—corporation manufacturer INDUSTRY.
 - credit due under 15-31-124 through 15-31-127 and [section 5], MCA+ for more than one membrocturing 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 AN_INDUSIRY 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. Corryback-and-corryover

provisions-of-15-31-114621v-MEAv-do-not-apply-in-taking-this credit Carryovers, however, are available as set forth in Lsection_51a_MCA."

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- 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 eredit availsble-under-15-31-124-through--15-31-127y--MCAy--may--be claimed--for--the-toxable-year-the-activity-for-which-credit is-claimed-occurred--Gredit-may-not-be-accumulatedy-and-if-a corporation-does-not-claim-credit--for-which-it-is--eligible during-a-taxable-veary-that-credit-is-lostw
- #2}--Eliqibility--for--the--tox-credit-expires-with-the corporation*s-taxable-vearu
- (3)--A-corporation manufacturer (1) AN INDUSTRY may use the credit available under 15-31-124 through 15-31-127 and <u>isection_51</u>, MCA, only when the corporation manufacturer INDUSTRY actually manufactures-products COMMENCES OPERATIONS in this state. No claim will be recognized if a--corporation AN INDUSTRY completes all preparatory phases without manufacturing-a-product COMMENCING_OPERATIONS.
- 21 (2) IF A NEW OR EXPANDING MANUEACTURER CEASES TO GRERATE. EITHER TEMPORARILY OR PERMANENTLY. UNDER NORMAL 23 CONDITIONS_THE_3-YEAR_PERIOD_OE_ELIGIBILITY_FOR__THE__CREDIT 24 CONTINUES UNTIL ITS NORMAL EXPIRATION DATE. IF ANOTHER 25 TREATMENT WOULD BE BENEETCIAL TO THE NEW INDUSTRY OR A

- SUCCESSOR INDUSTRY APPLICATION FOR THIS TREATMENT MUST BE
- 2 MADE TO THE DEPARTMENT DIRECTOR."
- 3 NEW_SECTION Section 22. Repealer. Rule 42.23.517.
- Administrative Rules of Montana, is repealed.
- 5 NEW_SECTION. Section 23. Applicability. This act
- applies to taxable years beginning after December 31, 1982.
- 7 NEW_SECTION. Section 24. Codification
- (1) Section 5 is intended to be codified as an integral part
- of Title 15, chapter 31, and the provisions of Title 15,
- 10 chapter 31, apply to section 5.
- 11 (2) Sections 6 through 10 are intended to be codified
- 12 as an integral part of Title 15, chapter 30, and the
- 13 provisions of Title 15, chapter 30, apply to sections 6
- through 10.

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STATEMENT OF INTENT

SENATE BILL 241

This act makes major changes to the provisions relating to the corporate license tax credit for new and expanding manufacturers and makes the credits available to qualified individual income taxpayers. The Department of Revenue has existing rulemaking authority with respect to the corporate license tax and has adopted rules which are more restrictive than the legislature intended. This act therefore directs the Dapartment of Revenue to amend its existing rules to make them less restrictive.

This act authorizes the Department of Revenue to adopt rules to implement sections 6 through 10 of the act. Sections 6 through 10 are the provisions of the act which relate to the individual income taxpayer. It is the intent of the legislature that the rules adopted pursuant to the rulemaking authority granted in this act be essentially the same as the rules which implement the corporate license tax provisions as they relate to new and expanding manufacturers.

3	GOODOVER, IVERSON, GAGE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6	TAX CREDIT AVAILABLE FOR NEW OR EXPANDING MANUFACTURERS
7	INDUSTRY: AMENDING SECTIONS 15-31-124 THROUGH 15-31-127.
В	MCA: DIRECTING THE AMENDMENT OF RULES 42.23.511 THROUGH
9	42-23-516 AND 42-23-518 THROUGH 42-23-522. ADMINISTRATIVE
0	RULES OF MONTANA; REPEALING RULE 42.23.517. ADMINISTRATIVE
1	RULES OF MONTANA; AND PROVIDING AN APPLICABILITY DATE.
2	
3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
4	Section 1. Section 15-31-124, MCA, is amended to read:
-	
5	*15-31-124. New or expanded tadastry manufacturer
5	#15-31-124. New or expanded industry manufacturer INDUSTRY credit definitions. As used in 15-31-124 through
-	
6	INDUSTRY credit definitions. As used in 15-31-124 through
6	INDUSTRY credit definitions. As used in 15-31-124 through 15-31-127, the following definitions apply:
6 7 .8	<pre>INDUSTRY credit definitions. As used in 15-31-124 through 15-31-127, the following definitions apply:</pre>
6 7 8	INDUSTRY 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
6 7 8 9	INDUSTRY 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 INDUSTRIAL operation to increase total full-time jobs by at
6 7 8 9	INDUSTRY 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 INDUSTRIAL operation to increase total full-time jobs by at least 30% or more at least five JOBS: whichever is less.
6 7 8 9	INDUSTRY 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 INDUSTRIAL operation to increase total full-time jobs by at least 30% or more at least five JOBS: whichever is less. (3) "Manufacturing" "Manufacturer" meanstheggy

SENATE BILL NO. 241

INTRODUCED BY LEE, FABREGA, KOLSTAD.

- 1	manual-of-1972-by-the-office-of-management-and-budget-of-th
2	United States IA1 THEN INDUSTRYT HEARS A PERSON
3	CORPORATION: EIRM: PARTNERSHIP: ASSOCIATION: OR OTHER GROU
4	THAT IS ESTABLISHED IN HONTANA FOR THE OPERATION OF A NE
5	INDUSTRIAL ENDEAVOR. INCLUDING THE EXPANSION DE AN EXISTIN
6	INDUSTRY.
7	(B) NEW INDUSTRY INCLUDES ONLY INDESTRIES THAT
8	(I) MANUFACTURE. MILL. MINE. PRODUCE. PROCESS. 0
9	EABRICATE_MATERIALS:
10	(II) DO SIMILAR WORK - EMPLOYING CAPITAL AND LABOR - I
11	WHICH MATERIALS UNSERVICEABLE IN THEIR MATURAL STATE AR
12	EXTRACTED. PROCESSED. OR MADE FIT FOR USE OR AR
13	SUBSTANTIALLY ALTERED DR TREATED SO AS TO CREATE COMMERCIA
14	PRODUCIS_OR_HATERIALS:_OR
15	(IIII) ENGAGE IN THE MECHANICAL OR CHEMICAL
16	IRANSEORMATION DE MATERIALS OR SUBSTANCES INTO NEW PRODUCTS
17	IN IME MANNER DEFINED AS MANUFACTURING IN THE 1972 STANDARD
18	INDUSTRIAL CLASSIFICATION MANUAL PREPARED BY THE UNITED
19	STATES_DEETCE_DE_MANAGEMENT_AND_BUDGET_
20	(C) NEW INDUSIRY DOES NOT INCLUDE RETAIL OR WHOLESALE
21	MERCHANIS. COMMERCIAL SERVICES OF ANY IYPE. AGRICULTURES
22	IRADES:_QR_QRQEESSIQNS.
23	f4)=Newcorporation=-means-a-corporation-engaging-in
24	monufacturingforthefirsttimeinthisstateon
25	menufecturinge-productnetcurrentlymenufecturede

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substantially-similar-to-a-product-currently-manufactured-by that-corporation-or-any-affiliate-corporation-in-this-stated it-does-not-include-reorganizing-an-existing-corporation-in this-state-or-the-creation-of-a-parenty-subsidiaryy-or affiliate-of-which-50%-or-more-is-owned-or-controlled-by-the same-persony-corporationy-or-associationy

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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 INDUSTRY 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 INDUSTRY or the first 3 years of expansion of an expanding corporation manufacturer INQUSTRY, 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 INDUSTRY, only those wages paid in support of the expansion are considered in ascertaining the credit. The IDIAL payroll and number of jobs IN MONIANA of the corporation manufacturer INDUSTRY in the 12-month 36-MONTH period OR THE PERIOD OF OPERATION OF THE INDUSTRY IN MUNTAMA: WHICHEVER IS LESS: immediately preceding the expansion are averaged to determine eligibility for the credit."

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Saction 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 INDUSTRIES THAT INCREASE IDIAL FULL-TIME JOBS

BY AT LEAST 302 OR AT LEAST FIVE JOBS: WHICHEYER IS LESS:

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 e-corporation manufacturer AN INDUSTRY for this credit, promulgate rules, prepare forms, maintain records, and perform other duties necessary to carry out 15-31-124 through 15-31-127.**

MEN_SECTION. Section 5. Carryover. (1) The tax credit provided for in 15-31-125 may not exceed the menufacturer*s

INDUSTRY'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 INDUSTRY*S tax liability for any taxable year.

22 <u>NEW_SECTION</u>. Section 6. New or expanded industry 23 credit -- definitions. As used in [sections 6 through 10], 24 the following definitions apply:

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

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SB 241

(2) "Expanding" means to expand or diversify a present operation to increase total full-time jobs by at least 30% or at least five 1085, whichever is less.

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- (3) "Manufacturer" means-any-business-that-engages--in
 a--process--of--mechanical--or--chemical--transformation--of
 materials-or-substances-into-new-productsy-as--described--in
 the-standard-industrial-classification-manual-of-1972-by-the
 office--of--management--and--budget--of--the--United-Statesy
 [Al_"NEW_INDUSTRY"__HEANS__A__PERSON=_CORPORATION=__EIRH=
 PARINERSHIP=_ASSOCIATION=_OR_OIHER_GROUP_IMAT_IS_ESTABLISHED
 IN_MONTANA_EGR_THE_OPERATION_OF_A_NEW_INDUSTRY=_ENDEAYOR=
 INCLUDING_THE_EXPANSION_OF_AN_EXISTING_INDUSTRY=
- 13 (R) NEW INDUSTRY INCLUDES ONLY THOSE INDUSTRIES THAT:
 14 (I) MANUFACTURE: MILL: MINE: PRODUCE: PROCESS: OR
 15 EABRICATE MATERIALS:
 - III) DO SIMILAR WORK. EMPLOYING CAPITAL AND LABOR. IN
 MHICH MATERIALS UNSERVICEABLE IN THEIR NATURAL STATE ARE
 EXIRACIED. PROCESSED. OR MADE FII FOR USE OR ARE
 SUBSIANTIALLY ALTERED OR TREATED SO AS TO CREATE COMMERCIAL
 PRODUCTS OR MATERIALS. OR
- 21 (III) ENGAGE IN THE MECHANICAL OR CHEMICAL
 22 TRANSEQRMATION OF MATERIALS OR SUBSTANCES INTO NEW PRODUCTS
 23 IN THE MANNER DEFINED AS MANUFACTURING IN THE 1972 STANDARD
 24 INQUSTRIAL CLASSIFICATION MANUAL PREPARED BY THE UNITED
 25 STATES OFFICE OF MANAGEMENT AND BUDGET.

- 1 ICL NEW INDUSTRY DOES NOT INCLUDE RETAIL OR WHOLESALE
 2 MERCHANIS. COMMERCIAL SERVICES OF ANY IYPE. AGRICULTURE.
 3 IRADES. OR PROFESSIONS.
- 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 The amount of the credit is based on a 15-30-103. percentage of wages paid its new employees within this state 10 for a period of 3 years as follows: for the first 3 years of 11 operation of a new manufacturer or the first 3 years of 12 expansion of an expanding manufacturer, a credit of 1% of 13 the total new wages paid in this state, as wages are defined in 39-51-201. In determining total wages for an expanding 14 15 manufacturer, only those wages paid in support of the 16 expansion are considered in ascertaining the credit. The 17 IDIAL payroll and number of jobs IN MONTANA of the 18 manufacturer in the 12-month 36-MONTH period OR THE PERIOD DE OPERATION OF THE INDUSTRY IN MONTANA. WHICHEVER IS LESS. 19 20 immediately preceding the expansion are averaged to 21 determine eligibility for the credit. If more than one individual is liable for the payment of the tax imposed by 22 15-30-193 on income derived from a new or expanding 23 24 manufacturer, the credit must be prorated among individuals who are liable for payment of the tax.

MEN SECTION.	Section 8.	Limitation	te Th	e credit
provided for in (s	ection 7] is	available	only for	IO_IHOSE
new and expanding	menufacturer	s-that-pro	r ide-jobs	INDUSTRIES
THAT_INCREASE_ID	IAL_EULL-II	HE_JOBS_8)	CAT LEAS	I_30%_OR_AI
LEAST_EIVE_JOBSW	HICHEYER_IS_	LESS: wit	thin 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].

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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 EBRPGRATIONS

##MUFACTURERS INDUSTRIES (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

1	corporation	manufacturer	INDUSIBY.	Any corporation
2	montecturer	INDUSTRY seeking	credit under	15-31-124 through
3	15-31-127+	MCA, shall d	conclusively	demonstrate its
4	eligibility	to the departs	ent. The dep	artment's decision
5	shall be fin:	a1 .		

- 6 (2) Each corporation agantacturer INDUSTRY seeking a 7 credit under 15-31-124 through 15-31-127, MCA, shall show:
- 8 (a) that it-is-a-corporation-preregistered-pursuant-to
 9 Title-35v-chapter-iv-MGAy-as--amended the manufacturer is
 10 preregistered as a walld existing business under the laws of
 11 this state;
- 12 (b) that it was registered for the first time during
 13 the tax year for which the first credit is claimed or that
 14 the industry meets the definition of expanding per
 15 15-31-124, MCA, as amended; and
- 16 (c) that the-corporation-is-engaged-in-manufacturing
 17 the applicant is a manufacturer NEW OR EXPANDING INQUSTRY as
 18 that term is defined in 15-31-124, MCAg-and
- 19 (d)--thet--the-product-manufactured-is-oney-which-prior
 20 te--its-production-by-the-corporationy-was-not-then-currently
 21 produced-in-this-state."
- 22 Section 12. The Department of Revenue shall amend Rule 23 42.23.512, Administrative Rules of Montana, to read:
- 24 "42_23_512 PERIOD OF FLIGIBILITY (1) As used in this
 25 section, period of eligibility means:

(a) in the case of a new corporation manufacturer INDUSIRY, 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 poing BUSINESS after all planning, construction, and testing have been completed; or

- (b) in the case of an expanding corporation manufacturer INDUSTRY, the consecutive 3-year period during which a credit may be claimed, commencing with preparation of-manufactures—of-the-product the start of expanded manufacturing OPERATIONS following the completion of all plannings constructions and testing required for the expansion.
- {2}--A--corporation--seeking--tox--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)121 Those periods of time before actual production of--a--new--product <u>REGINS</u>, during which support, planning, construction of facilities, and other preparatory activities occur, shall max 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:

†2)--The-material-processed-by--manufacturing--include products--of--agriculturev--forestryv--fishingy--miningy-and quarryingy-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--exampley--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

1	may-be-purchaseddirectlyfromthepurchosersyobtained
2	throughcustomorytrodechannelsyorsecuredwithout
3	recourse-to-the-market-by-transferring-the-product-fromone
4	establishmentto-enother-which-is-under-the-some-ownership*
5	Manufacturing-productionisusuallyearriedonforthe
٠6	wholesalemarketyfor-interplant-transfery-or-to-order-for
7	industrialusersyretherthanfordirectsoletothe
8	domestic-consumers
9	(4)(1) In instances where a classification between
10	manufacturing-andotherdivisionsofthe1972Standard
11	IndustrialElassificationMonualsystem ELIGIBLE NEW AND
12	EXPANDING INDUSTRIES AND DIMER BUSINESSES is difficult, the
13	department shall classify according to its best judgment.
14	This decision shall be final.
15	f5jt2lThe-following-activitiesalthoughnotalways
16	considered-as-manufacturingy-are-so-classified+
17	{a}#ilk-bottling-and-pasteurizing;
18	tb)fresh-fish-packagings
19	tctappareljobbingtassigningofmaterialsto
20	contractfactor iasorshopsforfabricationor other
21	contractoperations;aswellas-contracting-on-materials
22	owned-by-otherst
23	td }publ+shing;
24	te)ready-sixed-concrete-production;
25	(f)leather-convertings

1	(g)logging)
2	th)wood-preservings
3	<pre>figverious-service-industriestothemanufacturing</pre>
4	tradessuchus-typesettings-engravings-plote-printings-end
5	preparation-of-electrotyping-and-stereotype-platesy-butnot
6	blueprinting-or-photocopying-services;
7	{j}electroplatingplating-metal-heat-treatingand
8	polishing-for-the-tradet
9	tk}lapidary-work-for-the-tradet
10	tt;fabricating-of-signs-and-advertising-displays*
11	<pre>f6}There-are-also-some-manufacturing-typeactivities</pre>
12	performedbyeorporationswhichare-primarily-engaged-in
13	activitiescoveredbyotherdivisionsoftheStandard
14	IndustrialClassificationManual-of-1972y-and-are-thus-not
15	classifiedasmanufacturingsAfewoftheimportant
16	examples-are+
17	<pre>fajagricuitureyforestryy-and-fishing-{Processing-on</pre>
18	farms-is-not-considered-manufacturing-if-therawmaterials
19	aregrownonthe-form-and-if-the-monufacturing-activities
20	are-on-o-small-scalewithouttheextensiveuseofpaid
21	laborsBtherexclusionsarecustomgristmillinge
22	threshingand-cotton-ginning-);
23	(b)mining-withthedrossingandbeneficiatingof
24	orest-the-breakingy-washingy-and-grading-of-coalt-the
25	erushing-end-heraking-of-stonel-and-the-crushingsgrindings

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SB 0241/02 SB 0241/02

orotherwisepreparingof-sand-and-grayel-and-nonmetallic
chemicolandfertifizermineralsotherthanbarite
classified-as-mining;
{e}construction{fabricating-operations-performed-at
the-site-of-a-construction-by-contractors-are-not-considered
monufacturingThe-prefabrication-of-sheet-mataly-concretes
ond-terrezzo-productsandsimilarconstructionmaterials
shall-be-elossified-os-monufacturing#)†
fd}wholesaleandretailtradeywithcorporations
engaged-in-the-following-typesofoperationsincludedin
wholesale-or-retail-tradet
fitcutting-and-salling-purchased-carcasses;
titypreparing-fead-at-grain-elevators-and-farm-supply
stores
t++++stemmingleaftobaccoatwholesale
establishments;
tiv;production-of-wiping-rags;
{v}breaking-of-bułkandredistributioninsmaller
łotsy-including-packagingy-repackagingy-or-bottling-praducts
such-sa-fiquora-or-chemicalat
<pre>{v+jprimar+lyselling-products-to-the-general-public</pre>
which-are-produced-on-tho-same-premises-from-which-theyare
soldy-such-as-bakeriesy-candy-storesy-ice-cream-parlorsy-and
custom-tailors:
feteproject-with-tips-patrending-and-pehuildings-3ign

1	parnerng-and-receering-anipar-and-ene-produceron-or-motro
2	picturefilmsclassifiedasservicesandwithrepair
3	activitiesywiththefallowingexceptionsy-classified-a
4	services+
5	(+)ship-and-book-building-and-repairt
6	titythe-rebutiding-of-machinery-andequipmenton
7	factory-bastst-and
8	fittymachine-shop-repairs
9	Section 14. The Department of Revenue shall amend Rule
10	42.23.514, Administrative Rules of Montana, to read:
11	"42 <u>.23.514 NEW CORPORATION MANUFACTURER INDUSTRY</u>
12	ELIGIBILITY (1)-A-new-corporation manufacturer-is-ones
13	(a)which-has-never-done-business-inHontanainan
14	corporationpriorto-the-taxable-year-for-which-the-credi
15	is-claimed;-a-corporation-which-reportedorshouldhave
16	reportedanystate-or-federal-agency-or-officer-authorize
17	to-collecttaxesmeasuredbynetincomeshallnotb
18	etigible;
19	fb}whichmanufacturesaproductwhichwasno
20	manufactured-in-Montana-priortothattime which:
21	porticulor==aite==withio==Montanax==is=cither=building=a=ne
22	płankzerzesopeningzenzesistingzpłantzwithzthezeffectzofzans
23	iobs:new_to_the=locality*
24	(2) A corporation manufacturer BUSINESS_OR_INDUSIR

reorganized pursuant to Title 35, chapter 1, MCA, as

amended,	shall	not	pe	eligible	for	credit	under	15-31-124
through 1	5-31-12	7 and	_£s:	ection_5]	, HC	A.		

(3)--No--credit--shall--be--allowed---if---50%---of---a corporation*s--stock--is--owned--or--controlled--by-the-same individualy-corporationy-or-association--of--individuals--or corporations----In--this--instancey--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 corporationsy---an--applicant--for--credit--under--i5-31-124 through-15-31-127y-MGAy-shall--demonstrate--its--independent corporate--existence--to--the-satisfaction-of-the-department before-credit-may-be-granteds

(f)-A--corporation--formed---as---a--joint---venturey combinationy--subsidiaryy--parenty-affiliatey-mergery-or-any other--kind--of--cooperative--action--between--two--or--more corporations---which---cannot---demonstrate--an--independent corporate--axistence--shall--not--be--accepted--as---a---new corporation--by--the--department---for--purposas-of-15-31-124 through-15-31-127y-MCA*

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

23 *42.23.515 EXPANDING GBRPBRATION BANGEACTURER INDUSTRY
24 == ELIGIBILITY (1) An expanding corporation manufacturer
25 INDUSTRY is one which:

1 (a) was registered to do business in Montana at least
2 1 year prior to claiming a credit under 15-31-124 through
3 15-31-127 and (section_51) 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
- 8 (c) has at all times prior to claiming credit under
 9 15-31-124 through 15-31-127 and [section 5], MCA, complied
 10 with the requirements of Title 15, chapter 31, MCA, as
 11 amended+-and
 - (d)--manufactures--a--product--during--the--period---of

 aligibility--which--was-not-manufactured-in-Hontana-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 JOBS. whichever is less. The increase shall be measured as a percentage increase of full time jobs held with the corporation manufacturer INDUSTRY in Montana or attributable to Montana. The department shall recognize only full time jobs in determining eligibility for credit under 15-31-124 through

- 1 15-31-127 and [section 5], MCA."
- 2 Section 16. The Department of Revenue shall amend Rule 3 42.23.516. Administrative Rules of Montana, to read:
- 4 "92-23-516_COMPLIANCE_WITH_CERTAIN_STATUTES_REQUIRED
- 5 (1) A new or expanding corporation manufacturer INDUSTRY
- which fails to comply with the provisions of Title 15.
- 7 chapter 31, MCA, as amended, and Title 35, chapter 1, MCA.
- 8 as amended, during the period of eligibility shall lose its
- 9 eligibility to claim credit under 15-31-124 through
- 10 15-31-127 and [section 5], MCA."

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- Section 17. The Department of Revenue shall amend Rule
- 12 42.23.518. Administrative Rules of Montana, to read:
- 13 "42.23.518 SUBMISSION OF EMPLOYEE LISIS (1) An
- 14 expanding corporation manufacturer INDUSTRY seeking credit
 - under 15-31-124 through 15-31-127 and [section 5], NCA+
- 16 shall submit accurate employee lists to the department, so
- 17 that the department may determine the percentage increase of
- 18 new jobs in the taxable year for which credit is claimed.
- 19 (2) In applicable instances, an expanding corporation
 - monufacturer INDUSTRY shall submit 5 years of lists in order
- 21 that an average employment figure be determined and the
- 22 number of new employees discovered. If a--corporation
- 23 manufacturer AN INDUSTRY has not done business for a 5-year
- 24 period, employee lists for all years of operation shall be
- 25 submitted. A new corporation manufacturer INDUSTRY shall be

- 1 exempt from this requirement.
- 2 (3) The lists shall include:
- 3 (a) all employees of the existing and expanded
- 4 corporation manufacturer INDUSTRY;
- 5 (b) their employment status clearly set out (whether
- 6 full, half, or part-time);
- 7 (c) the position with the corporation firm;
- d) wages paid;
- 9 (e) the type of product produced by those employees
- 10 employed by the expanded portion of the corporation firm:
- 11 and
- 12 (f) the number of years the employee has been
- 13 employed.**
- 14 Section 18. The Department of Revenue shall amend Rule
- 15 42.23.519, Administrative Rules of Montana, to read:
- 16 *42-23-519 DETERMINATION OF NEW JOBS (1) The intent of
- 17 15-31-125. MCA. as amended, is to grant credit upon wages
- 18 paid to new employees. The department shall determine from
- 19 the information submitted if there has been at least a 30%
- 20 increase in the number of jobs or an increase of at least
- 21 five_iobs and that these positions are filled by newly-hired
- 22 personnel.
- 23 (2) The only employees which shall be counted in
- 24 determination of credit are those who*
- 25 feb were not employed by the corporation manufacturer

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INDUSTRY within 5 years of expansion;—and
tb;are-emptoyed-in-production-of-the-new-product.
(3) Any employee who was employed by an existing
corporation manufacturar INCUSTRY shall not be counted as a
new employme of the expanded corporation <u>manufacturer</u>
INDUSTRY if employment occurred within 5 years of the
expans i on •
t+7Hoemployeewhowasemployedin-ex+sting
operations-andwhoforanyreasonisemployedinthe
expandedoperationsshallbecountedforpurposesof
determining-eligibilityw
(5)Those-employaes-who-participated-intheplanning
andpreparationofthe-expansion-of-the-corporation-shall
notbecountedasnewemployeesoftheexpandee
corporationsyunlessy-in-facty-these-personnel-can-be-shown
to-have-been-hired-specifically-for-the-expansion-forwhich
creditiselaimedand-that-planning-the-expansion-was-the
only-activity-assigned-theme"
Section 19. The Department of Revenue shall amend Rule
42.23.520. Administrative Rules of Montana, to read:
#42 <u>a23a520_DETERMINATION_DE_WAGES</u> (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

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claimed.

1	(2) A taxpayer's taxable year may be used in place of
2	the 12-month period mandated by 15-31-125, MCA, as amended,
3	for determination of the credit. In cases where results from
4	computation of differing periods of time are found to yield
5	differing results: the smaller figure shall be accepted by
6	the department."
7	Section 20. The Department of Revenue shall amend Rule
8	42.23.521. Administrative Rules of Montana, to read:
9	"42,23,521 AVAILABILITY DE LAX CREDIT (1) A claim for

may be made <u>first</u> as a new corporation--or manufacturer INDUSTRY and then. later. as expansion occurs. as an expanding corporation;-no-corporation-may-qualify-as bothw-If-a-corporation-has-been--granted--eredit--as--o--new corporationy-it-may-not-subsequently-be-granted-credit-as-an expanding-corporation manufacturer INDUSTRY.

- (2) A--corporation manufacturer AN_INDUSIRY may claim credit due under 15-31-124 through 15-31-127 and [section 51. 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 AN INDUSTRY 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. Garryback-and-corryover

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1 provisions-of-15-31-114+21v-MEAv-do-not-apply-in-taking-this 2 eredit Carryovers, however, are available as set forth in 3 [section_5]. MCA.* Section 21. The Department of Revenue shall amend Rule 4 5 42.23.522. Administrative Rules of Montana, to read: *42.23.522 WHEN CREDIT MAY BE CLAIMED #19-The-credit 7 eva+7-bfe-under-15-31-124-through--15-31-127y--MCky--may--be cłaimed--for--the-taxabłe-year-the-activity-for-which-credit is-cloimed-occurred--Credit-may-not-be-accumulated--and-if-a 10 corporation-does-not-claim-credit--for-which-it-is--eligible 11 during-a-taxable-yeary-that-credit-is-lost-12 t2}~~Efigibifity~~for~-the--tax-credit-expires-with-the

corporation*s-taxable-yearv

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- (3)--A-corporation manufacturer (1) AN INDUSTRY may use the credit available under 15-31-124 through 15-31-127 and [SECTION 5]. MCA, only when the corporation manufacturer INDUSTRY actually manufactures-products COMMENCES OPERATIONS in this state. No claim will be recognized if e--corporation AN INDUSTRY completes all preparatory phases without manufacturing-a-product COMMENCING OPERATIONS.
- 21 (21 1E A NEW OR EXPANDING MANUFACTURER CEASES TO
 22 OPERATE. EITHER TEMPORARILY OR PERMANENTLY. UNDER NORMAL
 23 CONDITIONS THE 3-YEAR PERIOD OF ELIGIPILITY FOR THE CREDIT
 24 CONTINUES UNTIL ITS NORMAL EXPIRATION DATE. IF ANOTHER
 25 TREATMENT WOULD BE BENEFICIAL TO THE NEW INDUSTRY OR A

- SUCCESSOR INDUSTRY. APPLICATION FOR THIS TREATMENT MUST BE
- 2 MADE_TO_THE_DEPARTMENT_DIRECTOR."
- 3 <u>NEW_SECTION</u> Section 22. Repealer. Rule 42.23.517,
- 4 Administrative Rules of Montana, is repealed.
- 5 <u>NEW_SECTION</u> Section 23. Applicability. This act
- 6 applies to taxable years beginning after December 31, 1982.
- 7 <u>NEW SECTION</u> Section 24. Codification Instruction.
- 8 (1) Section 5 is intended to be codified as an integral part
- 9 of Title 15, chapter 31, and the provisions of Title 15,
- 10 chapter 31, apply to section 5.
- 11 (2) Sections 6 through 10 are intended to be codified
- 12 as an integral part of Title 15, chapter 30, and the
- 13 provisions of Title 15, chapter 30, apply to sections 6
- 14 through 10.

-End-