

SENATE BILL 361

Introduced by Rasmussen

2/07	Introduced
2/07	Referred to Taxation
2/08	Fiscal Note Requested
2/14	Hearing
2/14	Fiscal Note Received
2/15	Fiscal Note Printed
	Died in Committee

1 *Sen. Rasmussen* BILL NO. 361
2 INTRODUCED BY Rasmussen
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION
5 OF A NEW MANUFACTURING CORPORATION FOR TAX PURPOSES;
6 PROVIDING A 5-YEAR TAX EXEMPTION FOR QUALIFYING
7 CORPORATIONS; AMENDING SECTIONS 15-31-102 AND 15-31-124
8 THROUGH 15-31-127, MCA; AND PROVIDING A DELAYED EFFECTIVE
9 DATE."
10

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

12 **Section 1.** Section 15-31-102, MCA, is amended to read:

13 "15-31-102. Organizations exempt from tax -- unrelated
14 business income not exempt. (1) Except as provided in
15 subsection (3), there shall may not be taxed under this
16 title any income received by any:

17 (a) labor, agricultural, or horticultural organization;

18 (b) fraternal beneficiary, society, order, or
19 association operating under the lodge system or for the
20 exclusive benefit of the members of a fraternity itself
21 operating under the lodge system and providing for the
22 payment of life, sick, accident, or other benefits to the
23 members of such society, order, or association or their
24 dependents;

25 (c) cemetery company owned and operated exclusively for

1 the benefit of its members;

2 (d) corporation or association organized and operated
3 exclusively for religious, charitable, scientific, or
4 educational purposes, no part of the net income of which
5 inures to the benefit of any private stockholder or
6 individual;

7 (e) business league, chamber of commerce, or board of
8 trade not organized for profit and no part of the net income
9 of which inures to the benefit of any private stockholder or
10 individual;

11 (f) civic league or organization not organized for
12 profit but operated exclusively for the promotion of social
13 welfare;

14 (g) club organized and operated exclusively for
15 pleasure, recreation, and other nonprofitable purposes, no
16 part of the net income of which inures to the benefit of any
17 private stockholder or members;

18 (h) farmers' or other mutual hail, cyclone, or fire
19 insurance company, mutual ditch or irrigation company,
20 mutual or cooperative telephone company, or like
21 organization of a purely local character, the income of
22 which consists solely of assessments, dues, and fees
23 collected from members for the sole purpose of meeting its
24 expenses;

25 (i) cooperative association or corporation engaged in

1 the business of operating a rural electrification system or
2 systems for the transmission or distribution of electrical
3 energy on a cooperative basis;

4 (j) corporations or associations organized for the
5 exclusive purpose of holding title to property, collecting
6 income therefrom, and turning over the entire amount
7 thereof, less expenses, to an organization which itself is
8 exempt from the tax imposed by this title;

9 (k) wool and sheep pool, which is an association owned
10 and operated by agricultural producers organized to market
11 association members' wool and sheep, the income of which
12 consists solely of assessments, dues, and fees collected
13 from members for the sole purpose of meeting its expenses.
14 Income, for this purpose, does not include expenses and
15 money distributed to members contributing wool and sheep;

16 (l) corporation that qualifies as a domestic
17 international sales corporation (DISC) under the provisions
18 of section 991, et seq., of the Internal Revenue Code and
19 that has in effect for the entire taxable year a valid
20 election under federal law to be treated as a DISC. If a
21 corporation makes such an election under federal law, each
22 person who at any time is a shareholder of such corporation
23 is subject to taxation under Title 15, chapter 30, on the
24 earnings and profits of this DISC in the same manner as
25 provided by federal law for all periods for which the

1 election is effective.

2 (m) farmers' market association not organized for
3 profit and no part of the net income of which inures to the
4 benefit of any member, but is organized for the sole purpose
5 of providing for retail distribution of homegrown
6 vegetables, handicrafts, and other products either grown or
7 manufactured by the seller;

8 (n) corporation qualifying under [section 6] during the
9 first 5 years of operation.

10 (2) In determining the license fee to be paid under
11 this part, there shall not be included any earnings derived
12 from any public utility managed or operated by any
13 subdivision of the state or from the exercise of any
14 governmental function.

15 (3) Any unrelated business income, as defined by
16 section 512 of the Internal Revenue Code, 1954, as amended,
17 earned by any exempt corporation resulting in a federal
18 unrelated business income tax liability of more than \$100
19 shall be taxed as other corporation income is taxed under
20 this title. An exempt corporation subject to taxation on
21 unrelated business income under this section must file a
22 copy of its federal exempt organization business income tax
23 return on which it reports its unrelated business income
24 with the department of revenue."

25 **Section 2.** Section 15-31-124, MCA, is amended to read:

1 "15-31-124. New or expanded industry credit --
2 definitions. As used in 15-31-124 through 15-31-127, the
3 following definitions apply:

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

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

7 (3) "Manufacturing" means the process of mechanical or
8 chemical transformation of materials or substances into new
9 products, as described in the standard industrial
10 classification manual of 1972 by the office of management
11 and budget of the United States.

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

21 **Section 3.** Section 15-31-125, MCA, is amended to read:

22 "15-31-125. Determination of tax credit. (1) A new or
23 expanding manufacturing corporation may receive a license
24 tax credit based on a percentage of wages paid its new
25 employees within this state for a period of 3 years as

1 follows: the first 3 years of operation of a new corporation
2 or the first 3 years of expansion of an expanding
3 corporation, a credit of 1% of the total new wages paid in
4 this state, as wages are defined in 39-51-201, may be
5 allowed. In determining total wages for an expanding
6 corporation, only those wages paid in support of the
7 expansion are considered in ascertaining the credit. The
8 payroll and number of jobs of the corporation in the
9 12-month period immediately preceding the expansion are
10 averaged to determine eligibility for the credit.

11 (2) This section applies to new manufacturing
12 corporations not receiving a tax exemption under [section
13 6]."

14 **Section 4.** Section 15-31-126, MCA, is amended to read:

15 "15-31-126. Limitation of credit. This The credit
16 provided for in 15-31-125 is available only to those new and
17 expanding corporations that provide jobs within the state of
18 Montana and who do not receive a tax exemption under
19 [section 6]."

20 **Section 5.** Section 15-31-127, MCA, is amended to read:

21 "15-31-127. Department duties. The department shall
22 determine the eligibility of a corporation for this the
23 credit provided for in 15-31-125 and the exemption provided
24 for in [section 6], promulgate rules, prepare forms,
25 maintain records, and perform other duties necessary to

1 carry out 15-31-124 through 15-31-127 and [section 6]."

2 NEW SECTION. Section 6. Tax exemption --
3 qualifications. (1) A new manufacturing corporation is
4 exempt from taxation under this chapter for the first 5
5 years of operation if:

6 (a) at least 90% of the direct labor force is comprised
7 of persons who were Montana residents on the date the
8 corporation commenced operation;

9 (b) at least 25% of the indirect labor force is
10 comprised of persons who were Montana residents on the date
11 the corporation commenced operations; and

12 (c) the corporation operates actively for at least 10
13 years.

14 (2) A corporation receiving a tax exemption pursuant to
15 subsection (1) that fails to comply with the requirement
16 contained in subsection (1)(c) is liable for all previous
17 taxes that would have been imposed under this chapter, plus
18 interest and penalty.

19 (3) As used in this section:

20 (a) "direct labor" means labor applied directly to a
21 product;

22 (b) "indirect labor" means labor not applicable
23 directly to a product. The term includes but is not limited
24 to janitors, watchmen, repairmen, superintendents, and cost
25 accountants.

1 NEW SECTION. Section 7. Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

5 NEW SECTION. Section 8. Codification instruction.
6 [Section 6] is intended to be codified as an integral part
7 of Title 15, chapter 31, part 1, and the provisions of Title
8 15, chapter 31, part 1, apply to [section 6].

9 NEW SECTION. Section 9. Effective date. [This act] is
10 effective January 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB361, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the definition of a new manufacturing corporation for tax purposes; providing a 5-year tax exemption for qualifying corporations; and providing a delayed effective date.

ASSUMPTIONS:

1. The effective date of this bill is January 1, 1990.
2. "New" manufacturing corporations will not be profitable in their first year of operation.

FISCAL IMPACT:

Given the delayed effective date, the impact in the 1991 biennium is likely to be minimal.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Future bienniums will experience decreases in corporation license tax revenue to the extent that "new" manufacturing corporations will be exempt from tax liabilities that otherwise would occur. These revenue losses may be large or small depending on the size and profitability of the "new" qualifying corporations.

Ray Shackelford DATE 2/13/89
RAY/SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

Tom Rasmussen DATE 2-14-89
TOM RASMUSSEN, PRIMARY SPONSOR

Fiscal Note for SB361, as introduced

SB 361