

HOUSE BILL 51

Introduced by Giacometto, et al.

6/22	Introduced
6/22	Fiscal Note Requested
6/23	Referred to Taxation
6/26	Fiscal Note Received
6/27	Hearing
6/28	Committee Report--Bill Passed
6/29	Motion Failed to Suspend Rules and Place on 2nd Reading Died in Process

1 HOUSE BILL NO. 51  
2 INTRODUCED BY [Signature]  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE IN CLASS  
5 FIVE PROPERTY A NEW BUSINESS LOCATING IN MONTANA UNLESS IT  
6 IS IN COMPETITION WITH AN EXISTING MONTANA INDUSTRY;  
7 AMENDING SECTION 15-6-135, MCA; AND PROVIDING A DELAYED  
8 EFFECTIVE DATE."  
9

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

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

12 "15-6-135. Class five property -- description --  
13 taxable percentage. (1) Class five property includes:

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

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

21 (c) new ~~industrial~~ business property as defined in  
22 this section;

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

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

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

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

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

22 (3) "New ~~industrial~~ business property" means any new  
23 ~~industrial~~ plant, including land, buildings, machinery, and  
24 fixtures, used by a new industries-during-the-first-3--years  
25 of--their-operation business. The property may not have been



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1 assessed within the state of Montana prior to ~~July 1, 1961~~  
2 January 1, 1990.

3 (4) (a) "New industry business" means any person,  
4 corporation, firm, partnership, association, or other group  
5 that establishes a new plant business in Montana for the  
6 operation of a new industrial business endeavor, as  
7 distinguished from ~~a mere~~ an expansion, reorganization, or  
8 merger of an existing industry business.

9 (b) New industry business includes only those  
10 industries businesses that:

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

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

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

23 ~~(5) --New industrial property does not include:~~

24 ~~(a)(iv) property used by engage in retail or wholesale~~  
25 ~~merchants, merchandizing, provide commercial services of any~~

1 type, or engage in agriculture, trades, or professions;

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

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

7 (6) In order to qualify as new business property, the  
8 new business must not be in direct competition with an  
9 existing Montana business. An otherwise qualifying new  
10 business may be classified as a new business only if the  
11 property of the existing competing business is classified as  
12 class five property for taxation purposes. The department of  
13 revenue shall determine whether a business is a new  
14 business.

15 ~~(6)(7) Class five property is taxed at 3% of its~~  
16 ~~market value."~~

17 NEW SECTION. Section 2. Grandfather clause. [This  
18 act] does not affect the classification of property as "new  
19 industrial property" under 15-6-135 as it read prior to [the  
20 effective date of this act].

21 NEW SECTION. Section 3. Effective date. [This act] is  
22 effective January 1, 1990.

-End-

APPROVED BY COMMITTEE  
ON TAXATION

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22 this section;

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24 the production of gasohol during construction and for the  
25 first 3 years of its operation;

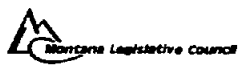
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4 development;

5 (f) machinery and equipment used in electrolytic  
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7 (2) (a) "Air and water pollution equipment" means  
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23 industrial plant, including land, buildings, machinery, and  
24 fixtures, used by a new industries-during-the-first-3-years  
25 of--their-operation business. The property may not have been



1 assessed within the state of Montana prior to ~~July 17, 1961~~  
2 January 1, 1990.

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17 products or materials; or

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19 transformation of materials or substances into new products  
20 in the manner defined as manufacturing in the 1972 Standard  
21 Industrial Classification Manual prepared by the United  
22 States office of management and budget; or

23 ~~{5}--New-industrial-property-does-not-include:~~

24 ~~{a}{iv} property-used-by engage in retail or wholesale~~  
25 merchants, merchandizing, provide commercial services of any

1 type, or engage in agriculture, trades, or professions;.

2 ~~{b}--a---plant---that---will---create---adverse---impact---on~~  
3 ~~existing-state, county, or municipal services; or~~

4 ~~{c}--property-used-or-employed-in-any-industrial-plant~~  
5 ~~that--has--been--in--operation--in-this-state-for-3-years-or~~  
6 ~~longer.~~

7 {6} In order to qualify as new business property, the  
8 new business must not be in direct competition with an  
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20 effective date of this act].

21 NEW SECTION. Section 3. Effective date. [This act] is  
22 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 HB51, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

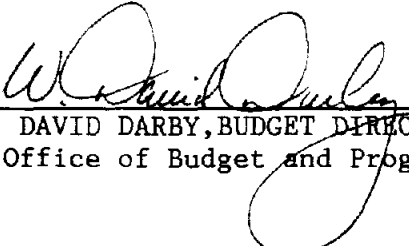
An act to include in class five property a new business locating in Montana unless it is in competition with an existing Montana industry; and providing a delayed effective date.


FISCAL IMPACT:

The Department of Revenue does not have adequate information with which to estimate the impact of the proposal. Because of the January 1, 1990 effective date, the proposal would not have any significant impact until FY91.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICT WITH EXISTING LEGISLATION:

The proposal does not contain language allowing rule making authority.

  
W. DAVID DARBY, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
LEO A. GIACOMETTO, PRIMARY SPONSOR      DATE  
Fiscal Note for HB51, as introduced

**HB 51**