SENATE BILL NO. 484

INTRODUCED BY MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPALITIES, CONSOLIDATED LOCAL GOVERNMENTS, AND COUNTIES TO CREATE EMPOWERMENT ZONES TO ENCOURAGE THE CREATION OF JOBS WITHIN THE ZONES; ~~AND~~ ALLOWING A TAX CREDIT AGAINST INDIVIDUAL INCOME TAXES, CORPORATION INCOME OR LICENSE TAXES, OR INSURANCE PREMIUM TAXES FOR QUALIFYING 3-YEAR JOBS CREATED IN AN EMPOWERMENT ZONE; AND AUTHORIZING THE DEPARTMENT TO ADOPT RULES~~; AUTHORIZING A REDUCTION IN CLASS FOUR PROPERTY FOR BUSINESSES THAT QUALIFY FOR THE TAX CREDIT; AND AMENDING SECTION 15-6-134, MCA~~."

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

NEW SECTION. **Section 1. Purpose of empowerment zone.** An empowerment zone is intended to be a tool of economic development that encourages the establishment of businesses in designated areas, which can cause the emergence of industry clusters. Businesses are encouraged to locate in empowerment zones through income tax credits~~,~~ AND insurance premium tax credits~~, and lower property tax payments~~ based upon the number of jobs that the employer has created in the empowerment zone.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) "Department" means the department of labor and industry.

(2) "Governing body" means the board of county commissioners of a county and the governing body of a consolidated local government or municipality.

NEW SECTION. **Section 3. Empowerment zones -- creation.** (1) The governing body of a county, a consolidated local government, or a municipality or jointly the governing bodies of counties, consolidated local governments, and municipalities may create empowerment zones. The empowerment zone may consist of all or a part of a county, consolidated local government, or municipality. If a proposed empowerment zone consists of an area partly within and partly outside of the limits of a municipality, the zone must be established by both the county and municipal governing bodies acting jointly, meeting together but voting separately.

(2) A governing body may adopt a resolution of intention to create an empowerment zone. The resolution must identify the limits of the zone and make findings that the proposed zone meets the qualifying criteria set forth in [section 4]. The governing body shall hold a public hearing on the question of whether to establish an empowerment zone. The hearing may be set no sooner than 3 weeks or later than 90 days from the date of the adoption of the resolution. Notice of the hearing must be published twice, 1 week apart not later than one week prior to the date set for the hearing. The notice must provide the subject, date, time, and place of the hearing and must identify the proposed empowerment zone boundaries.

(3) The hearing may be adjourned from time to time to seek additional information or to hear additional proponents or opponents. After the hearing, the governing body may, by resolution, create an empowerment zone.

(4) EACH GOVERNING BODY MAY CREATE A MAXIMUM OF ONE EMPOWERMENT ZONE, EITHER WHOLLY OR PARTIALLY WITHIN ITS LIMITS, IN ANY 7-YEAR PERIOD.

NEW SECTION. **Section 4. Criteria for empowerment zone.** An empowerment zone may be established if it meets the following requirements:

(1) the average unemployment or the poverty rate in the area or an area within a reasonable proximity of the area in the preceding 2 years, as determined by the department, was at least 150% of the average annual statewide unemployment or poverty rate for the same period;

(2) the geographical area must be contiguous, must be within one county~~, must have a population of at least 1,000 persons~~, and unless it consists totally of undeveloped land, may not consist of less than one-fourth square mile; AND

(3) the boundaries must be based on historic community or neighborhood identity and THE EMPOWERMENT ZONE MUST INCLUDE AN AREA IN WHICH THERE IS AN ANNUAL AVERAGE POPULATION OF AT LEAST 1,000 RESIDENTS. BOUNDARIES may also ~~use~~ BE BASED ON boundaries of United States census geographical units, political subdivisions, Indian reservations, and school districts.

(4) THE GOVERNING BODY HAS THE BURDEN OF ESTABLISHING THAT THE PROPOSED EMPOWERMENT ZONE MEETS THE REQUIREMENTS OF THIS SECTION.

NEW SECTION. **Section 5. Tax credits for employers in empowerment zone.** (1) There is allowed to an employer a credit against taxes imposed under 15-30-103, 15-31-121, 15-31-122, or 33-2-705 for an increase in net employees as provided in this section. ~~An employer that qualifies for a credit against income or premium taxes is entitled to a rate reduction in property taxes owed by the employer under [section 6].~~

(2) To be eligible for a credit under this section, the owner of a business located in an empowerment zone:

(a) shall conduct a business in a facility within the empowerment zone in which retail sales of tangible personal property, other than that manufactured in the business facility, is not in excess of 10% of the business conducted in the facility, whether measured by number of employees doing retail sales, by square footage, or by dollar volume; AND

(b) shall increase employment in the empowerment zone with employees:

(i) who are employed for at least 1,750 hours a year in permanent employment intended to last at least 3 years;

(ii) who were not employed by the business in the preceding 12 months;

(iii) at least 35% of whom were residents of the county in which the empowerment zone is located at the time they were hired by the business;

(iv) who are provided a health benefit plan for employees in accordance with 33-22-1811(3)(d) of which at least 50% of the premium is paid by the business; AND

(v) who are paid for job duties performed at the empowerment zone location of the business.

(3) (a) For the purposes of subsection (2)(b)(i), an employee hired in the last 90 days of a year is considered to be an employee beginning employment in the following year. If an employee terminates employment, a replacement employee may be hired and the credit for the combined length of time may be claimed.

(b) For the purposes of subsection (2)(b)(iii), if an employee for whom a credit was claimed and who counted as an empowerment zone county resident for credit eligibility in either of the immediate 2 preceding years terminates employment, the replacement employee must have been a resident of the county in which the empowerment zone is located at the time the replacement employee is hired.

(4) An employer shall apply for certification to claim a credit under the provisions of this section. The department shall require a report that contains detailed information to determine whether an employer qualifies under subsections (2) and (3). The information must be detailed enough for auditing purposes. The department is authorized to inspect employers applying for certification or who have obtained certification.

(5) The department shall certify to the department of revenue or the state auditor's office, as applicable, whether a business may claim a credit under the provisions of this section as well as how many additional employees qualify and the year of initial employment of qualifying employees.

~~NEW SECTION. **Section 6. Empowerment zone -- property tax rate reduction.** A person or business that has been certified under [sections 1 through 5] for a tax credit against taxes imposed under 15-30-103, 15-31-121, 15-31-122, or 33-2-705 is entitled to a reduction of the tax rate on property owned by the person or business. The rate for class four property owned by the person or business is two-thirds the otherwise applicable rate under 15-6-134(2)(a).~~

NEW SECTION. **Section 6. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due under 15-30-103 for an employer for each new employee at a business in an empowerment zone created pursuant to [sections 1 through 5]. The taxpayer must be certified by the department of labor and industry to be eligible to receive the credit as provided in [section 5].

(2) The amount of the credit for each qualifying employee is:

1st year of employment	$500
2nd year of employment	$1,000
3rd year of employment	$1,500

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

NEW SECTION. **Section 7. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due under 15-31-121 or 15-31-122 for an employer for each new employee at a business in an empowerment zone created pursuant to [sections 1 through 5]. The taxpayer must be certified by the department of labor and industry to be eligible to receive the credit as provided in [section 5].

(2) The amount of the credit for each qualifying employee is:

1st year of employment	$500
2nd year of employment	$1,000
3rd year of employment	$1,500

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-1101, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

NEW SECTION. **Section 8. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due under 33-2-705 for an employer for each new employee at a business in an empowerment zone created pursuant to [sections 1 through 5]. The taxpayer must be certified by the department of labor and industry to be eligible to receive the credit as provided in [section 5].

(2) The amount of the credit for each qualifying employee is:

1st year of employment	$500
2nd year of employment	$1,000
3rd year of employment	$1,500

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

~~**Section 10.** Section 15-6-134, MCA, is amended to read:~~

~~**"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:~~

~~(a) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;~~

~~(b) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;~~

~~(c) the first $100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income~~

~~of all types but not including social security income paid directly to a nursing home, is not more than $15,000 for a single person or $20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.~~

~~(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;~~

~~(e) subject to 15-6-201(1)(z), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.~~

~~(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;~~

~~(ii) rental multifamily dwelling units;~~

~~(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and~~

~~(iv) vacant residential lots; and~~

~~(g) (i) commercial buildings and the parcels of land upon which they are situated; and~~

~~(ii) vacant commercial lots.~~

~~(2) Class four property is taxed as follows:~~

~~(a) (i) Except as provided in~~ [section 6], ~~15-24-1402, 15-24-1501, 15-24-1502, and subsection (2)(a)(ii) of this section, property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at 3.794% of its taxable market value in tax year 1999.~~

~~(ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.~~

~~(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a)(ii) of its market value multiplied by a percentage figure based on income and determined from the following table:~~

~~Income~~ ~~Single Person~~	~~Income~~ ~~Married Couple~~ ~~Head of Household~~	~~Percentage~~ ~~Multiplier~~
~~$0 - $ 6,000~~	~~$0 - $8,000~~	~~20%~~
~~6,001 - 9,200~~	~~8,001 - 14,000~~	~~50%~~

~~9,201 - 15,000 14,001 - 20,000 70%~~

~~(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:~~

~~(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and~~

~~(B) rounding the product thus obtained to the nearest whole dollar amount.~~

~~(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.~~

~~(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a)(i).~~

~~(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."~~

NEW SECTION. **SECTION 9. RULEMAKING AUTHORITY.** THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT [SECTIONS 1 THROUGH 5].

NEW SECTION. **Section 10. Codification instruction.** (1) [Sections 1 through 5 AND 9] are intended to be codified as an integral part of Title 7, chapter 21, and the provisions of Title 7, chapter 21, apply to [sections 1 through 5 AND 9].

~~(2) [Section 6] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 6].~~

~~(3)~~(2) [Section ~~7~~ 6] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section ~~7~~ 6].

~~(4)~~(3) [Section ~~8~~ 7] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section ~~8~~ 7].

~~(5)~~(4) [Section ~~9~~ 8] is intended to be codified as an integral part of Title 33, chapter 2, and the provisions of Title 33, chapter 2, apply to [section ~~9~~ 8].

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