

1 HOUSE BILL NO. 689

2 INTRODUCED BY ARNTZEN, FACEY, NOONAN, BERGREN, HENDRICK, MAEDJE, MCALPIN, WITT,
3 WAITSCHIES, LAMBERT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE RECAPTURE OF PROPERTY TAX INCENTIVES
6 THAT DO NOT MEET THE REQUIREMENTS OF A TAX ABATEMENT FOR NEW AND EXPANDING
7 INDUSTRY, BUILDING REMODELING, RECONSTRUCTION, AND EXPANSION, BUSINESS INCUBATORS,
8 INDUSTRIAL PARKS, ECONOMIC DEVELOPMENT ORGANIZATIONS, AND VALUE-ADDED
9 MANUFACTURING; AND AMENDING SECTIONS 15-24-1402, 15-24-1501, 15-24-1502, 15-24-1802,
10 15-24-1902, 15-24-2002, AND 15-24-2404, MCA."

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

13
14 **Section 1.** Section 15-24-1402, MCA, is amended to read:

15 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
16 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
17 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
18 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
19 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
20 taxed at 100% of its taxable value.

21 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body
22 of the affected county or the incorporated city or town must have approved by separate resolution for each
23 project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for
24 in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until
25 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

26 (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
27 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

28 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
29 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
30 resolution may provide that real property other than land, personal property, improvements, or any combination

1 thereof is eligible for the tax benefits described in subsection (1).

2 (d) Property taxes abated from the reduction in taxable value allowed by this section are subject to
 3 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
 4 of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2) (c) of this section. The
 5 recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes
 6 provided in 15-16-102, during any period in which an abatement under the provisions of this section was in
 7 effect. THE AMOUNT RECAPTURED, INCLUDING PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO
 8 FUNDS AND ACCOUNTS SUBJECT TO THE ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A
 9 recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the
 10 abatement by reason of an involuntary conversion. THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE
 11 OR IN PART, IF THE LOCAL GOVERNING BODY DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS
 12 IS A RESULT OF CIRCUMSTANCES BEYOND THE CONTROL OF THE TAXPAYER.

13 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
 14 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
 15 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for
 16 the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body
 17 of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

18 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
 19 for local high school district and elementary school district purposes and to the number of mills levied and
 20 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
 21 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
 22 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

23 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
 24 all taxing jurisdictions affected by the tax benefit."
 25

26 **Section 2.** Section 15-24-1501, MCA, is amended to read:

27 **"15-24-1501. Remodeling, reconstruction, or expansion of buildings or structures -- assessment**
 28 **provisions -- levy limitations.** (1) Subject to 15-10-420 and the authority contained in subsection (4) of this
 29 section, remodeling, reconstruction, or expansion of existing buildings or structures, which increases their
 30 taxable value by at least 2 1/2% as determined by the department, may receive tax benefits during the

1 construction period and for the following 5 years in accordance with subsections (2) through (4) and the following
 2 schedule. The percentages must be applied as provided in subsections (3) and (4) and are limited to the
 3 increase in taxable value caused by remodeling, reconstruction, or expansion:

4 Construction period	0%
5 First year following construction	20%
6 Second year following construction	40%
7 Third year following construction	60%
8 Fourth year following construction	80%
9 Fifth year following construction	100%
10 Following years	100%

11 (2) In order to confer the tax benefits described in subsection (1), the governing body of the affected
 12 county or, if the construction will occur within an incorporated city or town, the governing body of the incorporated
 13 city or town shall approve by resolution for each remodeling, reconstruction, or expansion project the use of the
 14 schedule provided for in subsection (1) or a schedule adopted pursuant to subsection (4).

15 (3) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
 16 for high school district and elementary school district purposes and to the number of mills levied and assessed
 17 by the local governing body approving the benefit. The benefit described in subsection (1) may not apply to
 18 statewide levies.

19 (4) A local government may, in the resolution required by subsection (2), modify the percentages
 20 contained in subsection (1) that apply to the first year following construction through the fourth year following
 21 construction. A local government may not modify the percentages contained in subsection (1) that apply to the
 22 fifth year following construction or years following the fifth year. A local government may not modify the time
 23 limits contained in subsection (1). The modifications to the percentages in subsection (1) adopted by a local
 24 government apply uniformly to each remodeling, reconstruction, or expansion project approved by the governing
 25 body.

26 (5) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 27 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
 28 of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes
 29 avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period
 30 in which an abatement under the provisions of this section was in effect. THE AMOUNT RECAPTURED, INCLUDING

1 PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO FUNDS AND ACCOUNTS SUBJECT TO THE
 2 ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A recapture of taxes abated by this section is
 3 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
 4 THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE OR IN PART, IF THE LOCAL GOVERNING BODY
 5 DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS IS A RESULT OF CIRCUMSTANCES BEYOND THE
 6 CONTROL OF THE TAXPAYER."

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8 **Section 3.** Section 15-24-1502, MCA, is amended to read:

9 **"15-24-1502. Tax exemption and abatement for remodeling, reconstruction, or expansion of**
 10 **certain commercial property -- approval.** (1) (a) Subject to the conditions of this section, remodeling,
 11 reconstruction, or expansion of an existing commercial building or structure that increases its taxable value by
 12 at least 5%, as determined by the department, may receive a property tax exemption during the construction
 13 period, not to exceed 12 months, and for up to 5 years following completion of construction. The property tax
 14 exemption is limited to 100% of the increase in taxable value caused by remodeling, reconstruction, or
 15 expansion.

16 (b) (i) In addition to the property tax exemption described in subsection (1)(a), the buildings and
 17 structures may receive a property tax reduction for 4 years following the exemption period as provided in this
 18 subsection (1)(b). The percentages must be applied to the increase in taxable value caused by remodeling,
 19 reconstruction, or expansion according to the following schedule:

20 First year following the exemption period	20%
21 Second year following the exemption period	40%
22 Third year following the exemption period	60%
23 Fourth year following the exemption period	80%
24 Fifth year following the exemption period	100%
25 Following years	100%

26 (ii) Mill levies are assessed against the reduced taxable value of the remodeling, reconstruction, or
 27 expansion determined under subsection (1)(b)(i).

28 (c) To be eligible for the property tax exemption and the property tax reduction, the commercial building
 29 or structure may not have been used in a business for at least 6 months immediately preceding the date of
 30 application to the governing body for approval under subsection (2).

1 (2) (a) In order to confer the tax benefits described in subsection (1), the governing body of the affected
2 county or consolidated government or, if the construction will occur within an incorporated city or town, the
3 governing body of the incorporated city or town shall approve by resolution for each remodeling, reconstruction,
4 or expansion project the use of the property tax exemption and property tax reduction.

5 (b) The governing body may not grant the property tax benefits described in subsection (1) if property
6 taxes on the buildings or structures are delinquent.

7 (3) Property taxes abated from the reduction in property taxes allowed by this section are subject to
8 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
9 of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes
10 avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period
11 in which an abatement under the provisions of this section was in effect. THE AMOUNT RECAPTURED, INCLUDING
12 PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO FUNDS AND ACCOUNTS SUBJECT TO THE
13 ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A recapture of taxes abated by this section is
14 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
15 THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE OR IN PART, IF THE LOCAL GOVERNING BODY
16 DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS IS A RESULT OF CIRCUMSTANCES BEYOND THE
17 CONTROL OF THE TAXPAYER."

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19 **Section 4.** Section 15-24-1802, MCA, is amended to read:

20 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
21 leased and operated by a local economic development organization is eligible for an exemption from property
22 taxes as provided in this section.

23 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
24 consolidated government, incorporated city or town, or school district in which the property is located shall
25 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
26 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is
27 approved, the governing body shall do so by a separate resolution for each business incubator in its respective
28 jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's
29 taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property
30 taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding

1 the hearing, the governing body shall determine that the local economic development organization:

2 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
3 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

4 (b) is engaged in economic development and business assistance work in the area; and

5 (c) owns or leases and operates or will operate the business incubator.

6 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
7 shall make the assessment change for the tax exemption provided for in this section.

8 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
9 assessed by the governing body approving the exemption over which the governing body has sole discretion.
10 If the governing body of a county, consolidated government, or incorporated city or town approves the
11 exemption, the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or
12 20-9-333 or otherwise required under state law.

13 (5) Property taxes abated from the reduction in property taxes allowed by this section are subject to
14 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
15 of 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal
16 to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in
17 15-16-102, during any period in which an abatement under the provisions of this section was in effect. THE
18 AMOUNT RECAPTURED, INCLUDING PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO FUNDS AND
19 ACCOUNTS SUBJECT TO THE ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A recapture of taxes
20 abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of
21 an involuntary conversion. THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE OR IN PART, IF THE LOCAL
22 GOVERNING BODY DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS IS A RESULT OF
23 CIRCUMSTANCES BEYOND THE CONTROL OF THE TAXPAYER."

24

25 **Section 5.** Section 15-24-1902, MCA, is amended to read:

26 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
27 and operated by a local economic development organization or a port authority is eligible for an exemption from
28 property taxes as provided in this section.

29 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
30 consolidated government, incorporated city or town, or school district in which the property is located shall

1 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
2 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is
3 approved, the governing body shall do so by a separate resolution for each industrial park in its respective
4 jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes
5 have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the
6 governing body shall determine that:

7 (a) the local economic development organization:

8 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
9 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

10 (ii) is engaged in economic development and business assistance work in the area; and

11 (iii) owns and operates or will own and operate the industrial development park; or

12 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

13 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
14 shall make the assessment change for the tax exemption provided for in this section.

15 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
16 assessed by the governing body approving the exemption over which the governing body has sole discretion.
17 If the governing body of a county, consolidated government, or incorporated city or town approves the
18 exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or
19 20-9-333 or otherwise required under state law.

20 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
21 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
22 state, or local government, the tax exemption provided in this section terminates. The termination of the
23 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
24 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

25 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
26 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
27 of 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal
28 to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in
29 15-16-102, during any period in which an abatement under the provisions of this section was in effect. THE
30 AMOUNT RECAPTURED, INCLUDING PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO FUNDS AND

1 ACCOUNTS SUBJECT TO THE ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A recapture of taxes
 2 abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of
 3 an involuntary conversion. THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE OR IN PART, IF THE LOCAL
 4 GOVERNING BODY DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS IS A RESULT OF
 5 CIRCUMSTANCES BEYOND THE CONTROL OF THE TAXPAYER."

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7 **Section 6.** Section 15-24-2002, MCA, is amended to read:

8 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
 9 owned by a local economic development organization that the local economic development organization intends
 10 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
 11 taxes as provided in this section.

12 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
 13 county, consolidated government, incorporated city or town, or school district in which the building and land are
 14 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing.
 15 The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing
 16 body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for
 17 the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not
 18 preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic
 19 development organization:

20 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
 21 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

22 (b) is engaged in economic development and business assistance work in the area; and

23 (c) owns or will own the building and land.

24 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department
 25 shall make the assessment change for the tax exemption provided for in this section.

26 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
 27 assessed by the governing body approving the exemption over which the governing body has sole discretion.
 28 If the governing body of a county, consolidated government, or incorporated city or town approves the
 29 exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or
 30 20-9-333 and other levies required under state law.

1 (5) When a local economic development organization sells, leases, or otherwise disposes of the exempt
 2 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
 3 state, or local government, the tax exemption provided in this section terminates. The termination of the
 4 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of
 5 the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

6 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 7 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
 8 of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes
 9 avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period
 10 in which an abatement under the provisions of this section was in effect. THE AMOUNT RECAPTURED, INCLUDING
 11 PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE TREASURER TO FUNDS AND ACCOUNTS SUBJECT TO THE
 12 ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS ABATED. A recapture of taxes abated by this section is
 13 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
 14 THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN WHOLE OR IN PART, IF THE LOCAL GOVERNING BODY
 15 DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE REQUIREMENTS IS A RESULT OF CIRCUMSTANCES BEYOND THE
 16 CONTROL OF THE TAXPAYER."

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 18 **Section 7.** Section 15-24-2404, MCA, is amended to read:

19 **"15-24-2404. Exclusion from other property tax reductions or exemptions -- recapture.** (1) If a
 20 taxable value decrease is taken pursuant to this part, other property tax reductions or exemptions, including but
 21 not limited to those provided in 15-6-135, 15-24-1402, and 15-24-1501, are not allowed for the qualifying
 22 property.

23 (2) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 24 recapture BY THE LOCAL GOVERNING BODY if the ownership or use of the property does not meet the requirements
 25 of this part. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment
 26 of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this
 27 section was in effect. THE AMOUNT RECAPTURED, INCLUDING PENALTY AND INTEREST, MUST BE DISTRIBUTED BY THE
 28 TREASURER TO FUNDS AND ACCOUNTS SUBJECT TO THE ABATEMENT IN THE SAME RATIO AS THE PROPERTY TAX WAS
 29 ABATED. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for
 30 the abatement by reason of an involuntary conversion. THE RECAPTURE OF ABATED TAXES MAY BE CANCELED, IN

1 WHOLE OR IN PART, IF THE LOCAL GOVERNING BODY DETERMINES THAT THE TAXPAYER'S FAILURE TO MEET THE
2 REQUIREMENTS IS A RESULT OF CIRCUMSTANCES BEYOND THE CONTROL OF THE TAXPAYER."

3 - END -