

SENATE BILL NO. 240

INTRODUCED BY B. TUTVEDT

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL EQUIPMENT FROM PROPERTY TAXES; AMENDING SECTIONS 15-6-135 AND 15-6-219, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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

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

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

(b) air and water pollution control equipment as defined in this section, except air and water pollution control equipment that is exempt under 15-6-219(8);

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

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

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices,

1 or equipment is not eligible for certification under this section.

2 (b) Requests for certification must be made on forms available from the department of revenue.  
3 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,  
4 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

5 (c) The department of environmental quality shall promulgate rules specifying procedures, including  
6 timeframes for certification application, and definitions necessary to identify air and water pollution control  
7 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the  
8 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall  
9 identify and track compliance in the use of certified air and water pollution control equipment and report  
10 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated  
11 incidents of noncompliance at a facility do not affect certification.

12 (d) A person may appeal the certification, classification, and valuation of the property to the state tax  
13 appeal board. Appeals on the property certification must name the department of environmental quality as the  
14 respondent, and appeals on the classification or valuation of the equipment must name the department of  
15 revenue as the respondent.

16 (3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,  
17 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been  
18 assessed within the state of Montana prior to July 1, 1961.

19 (b) New industrial property does not include:

20 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,  
21 or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

22 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

23 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years  
24 or longer.

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

28 (b) New industry includes only those industries that:

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

30 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state

1 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial  
2 products or materials;

3 (iii) engage in the mechanical or chemical transformation of materials or substances into new products  
4 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared  
5 by the United States office of management and budget;

6 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50%  
7 or more of an industry's gross sales or receipts are earned from outside the state; or

8 (v) earn 50% or more of their annual gross income from out-of-state sales.

9 (5) Class five property is taxed at 3% of its market value."  
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11 **Section 2.** Section 15-6-219, MCA, is amended to read:

12 **"15-6-219. Personal and other property exemptions.** The following categories of property are exempt  
13 from taxation:

14 (1) harness, saddlery, and other tack equipment;

15 (2) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily  
16 hand-held and that are used to:

17 (a) construct, repair, and maintain improvements to real property; or

18 (b) repair and maintain machinery, equipment, appliances, or other personal property;

19 (3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing  
20 machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes  
21 or for furnishing or equipping the family residence;

22 (4) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

23 (5) items of personal property intended for rent or lease in the ordinary course of business if each item  
24 of personal property satisfies all of the following:

25 (a) the acquired cost of the personal property is less than \$15,000;

26 (b) the personal property is owned by a business whose primary business income is from rental or lease  
27 of personal property to individuals and no one customer of the business accounts for more than 10% of the total  
28 rentals or leases during a calendar year; and

29 (c) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or monthly  
30 basis;

1           (6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,  
2 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and  
3 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that  
4 are directly used for space vehicle design, manufacture, launch, repair, and maintenance; ~~and~~

5           (7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in  
6 33-25-105; and

7           (8) air and water pollution control equipment, as defined in 15-6-135(2)(a), placed in service after  
8 January 1, 2012."

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10           NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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12           NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the  
13 meaning of 1-2-109, to tax years beginning after December 31, 2012.

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