

1 HOUSE BILL NO. 394

2 INTRODUCED BY M. NOLAND

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL
5 AND CARBON CAPTURE EQUIPMENT FROM PROPERTY TAXATION; AND AMENDING SECTION 15-6-
6 135, MCA."

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

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

11 **"15-6-135. Class five property -- description -- taxable percentage -- exemption.** (1) Class five
12 property includes:

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

16 (b) air and water pollution control and carbon capture equipment as defined in this section;

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

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

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

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

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

26 (2) (a) "Air and water pollution control and carbon capture equipment" means that portion of
27 identifiable property, facilities, machinery, devices, or equipment certified as provided in subsections (2)(b) and
28 (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating,

1 eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or
2 water pollutants that, except for the use of the item, would be released to the environment. This includes
3 machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in
4 pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment
5 is not eligible for certification under this section.

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

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

17 (d) To qualify for the exemption under subsection (5)(b), the air and water pollution control and carbon
18 capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit
19 or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon
20 capture equipment enhances the performance of existing air and water pollution control and carbon capture
21 equipment, only the market value of the enhancement is subject to the exemption under subsection (5)(b).

22 (e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under
23 subsection (5)(b) includes but is not limited to equipment placed into service to maintain, replace, or repair
24 equipment installed on or before January 1, 2014.

25 (f) A person may appeal the certification, classification, and valuation of the property to the state tax
26 appeal board. Appeals on the property certification must name the department of environmental quality as the
27 respondent, and appeals on the classification or valuation of the equipment must name the department of
28 revenue as the respondent.

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

4 (b) New industrial property does not include:

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

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

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

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

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

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

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

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

21 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if
 22 50% or more of an industry's gross sales or receipts are earned from outside the state; or

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

24 (5) (a) Except as provided in subsection (5)(b), class five property is taxed at 3% of its market value.

25 (b) Air and water pollution control and carbon capture equipment placed in service after January 1,
 26 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation ~~for a period of 10 years from the~~
 27 ~~date of certification, after which the property is assessed at 100% of its taxable value."~~

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