

Montana HB 469
Senate Taxation Committee
Wireless Central Assessment Issues
March 7, 2007

Taxation
SENATE
EXHIBIT NO. 7
DATE 3-7-07
BILL NO. HB-469

- This bill is seeking to clarify that the property of wireless communications providers remain classified as Class 8 property.
- The DOR has indicated its intention absent legislative directive that it will treat the property of wireless communications providers as utility property subject to state assessment as Class 13 property. This "change" would more than double the amount of property taxes paid by wireless providers.
- The property of wireless companies has been treated as Class 8 property since they started providing service in the state in the early 1990's. A policy decision to change the property tax structure as applied to wireless companies should be vetted through the Legislature and not done through administrative action by the DOR.
- The state has looked at this issues several times over the past several years and each previous time concluded that a legislative change would be necessary to assess the property of wireless providers as Class 13 property. Now the DOR is "creating" its own policy by making this change absent legislative direction to the contrary.
- The DOR has indicated that this is the Nation trend that other states are following. That is simply not the case. The National trend is to review the tax structure applied to the telecommunications industry in total and reform those structures so that the industry and its consumers are no longer taxed like a regulated utility and are taxed like any other competitive business operating in the state. These principles have been widely recognized and supported by NCSL and NGA.
- Assessing wireless companies as Class 13 property would result in two significant changes. The first is double the tax rate applied to the fair market value of the property. The second is changing the method of assessment to the "unitary" method, which determines the value of the business, not the value of the physical property.
- Wireless companies are assessed using the "unit" in only eleven states. Of those states, only three (OK, TN & WY) have tax rate differences; however, the state of WY has legislation currently pending that has passed in the House and out of Committee in the Senate that would eliminate this difference for all communications companies and TN provides a tax credit to try to minimize the difference. Only three (AR, OK & TN) states have no limitation on their ability to tax intangible value (full business value.) However, in those states the practice has been to eliminate intangible value from the assessment.
- The taxation of "utility" property was historically justified due to the specific benefits utility companies received, i.e. uses of the public rights-of-way. The wireless industry is not a utility and never has been. Accordingly, they do not receive the same benefits that utilities do, so there is no rational basis to tax the property of wireless companies differently than any other competitive business.

