

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN AIR AND WATER POLLUTION
5 CONTROL EQUIPMENT IS CLASSIFIED AS CLASS EIGHT BUSINESS EQUIPMENT PROPERTY INSTEAD
6 OF CLASS FIVE PROPERTY FOR THE PURPOSE OF PROPERTY TAXATION; PROVIDING A
7 REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS UNDER THE
8 ENTITLEMENT SHARE PAYMENT, TO SCHOOL DISTRICTS THROUGH THE BLOCK GRANT PROGRAM,
9 TO COUNTY SCHOOL RETIREMENT AND COUNTY TRANSPORTATION REIMBURSEMENT, AND TO THE
10 MONTANA UNIVERSITY SYSTEM FOR THE LOSS OF CLASS FIVE AND CLASS TWELVE PROPERTY TAX
11 REVENUE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-123, 15-6-135, AND
12 15-6-138, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 15-1-123, MCA, is amended to read:

17 **"15-1-123. Reimbursement for class eight rate reduction and exemption -- distribution --**
18 **appropriations.** (1) (a) For the reduction of the tax rate for certain air and water pollution control equipment in
19 15-6-138(1)(n), for the tax rate reductions in ~~15-6-138~~ 15-6-138(4), and for the effective tax rate reductions on
20 property under 15-6-145 because of the rate reductions required by the amendment of 15-6-138 in section 2,
21 Chapter 411, Laws of 2011, and [section 3(1)(n)], the department shall, ~~by June 1, 2012, and for each calendar~~
22 year that the tax rate is adjusted under 15-6-138(4), pursuant to the timeline in subsection (1)(b), estimate for
23 each local government, as defined in 15-1-121(5), each school district, the county retirement fund under
24 20-9-501, the countywide school transportation reimbursement under 20-10-146, each tax increment financing
25 district, and the 6-mill university levy for the purposes of 15-10-108, the difference between property tax
26 collections under 15-6-138; as amended by section 2, Chapter 411, Laws of 2011, and [section 3], and under
27 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138
28 had not been amended by section 2, Chapter 411, Laws of 2011, and [section 3]. The difference is the ~~annual~~
29 reimbursable amount for each local government, each school district, each tax increment financing district, and
30 the 6-mill levy for the support of the Montana university system under 15-10-108.

1 **(b) The department shall make the calculations provided for in subsection (1)(a):**
 2 **(i) by June 1 of each calendar year that the tax rate is adjusted as a tax rate reduction under 15-6-138(4);**
 3 **(ii) except as provided in subsection (2)(b)(i), (3)(b)(i), (4)(b)(i), (5)(b)(i), (6)(b)(i), and (7)(b)(i) pertaining**
 4 **to personal property taxes, by June 1 of each calendar year in which there is an effective tax rate reduction on**
 5 **property under 15-6-145 because of the rate reductions required by the amendment of 15-6-138 in section 2,**
 6 **Chapter 411, Laws of 2011, and the reduction of the tax rate for certain air and water pollution control equipment**
 7 **in 15-6-138(1)(n) required by the amendment of 15-6-138 in [section 3(1)(n)]; and**
 8 **(iii) except as provided in subsections (2)(b)(ii), (3)(b)(ii), (4)(b)(ii), (5)(b)(ii), (6)(b)(ii), and (7)(b)(ii)**
 9 **pertaining to personal property taxes, by June 1, 2014, for calendar year 2014 as a reimbursement for the**
 10 **reduction of the tax rate for certain air and water pollution control equipment in 15-6-138(1)(n) required by the**
 11 **amendment of 15-6-138 in [section 3(1)(n)].**

12 (2) (a) The department shall distribute the ~~reimbursement~~ **reimbursements** calculated in subsection (1)
 13 to local governments with the entitlement share payments under 15-1-121(7) ~~for fiscal year 2012 and for all other~~
 14 ~~fiscal years in which rate reductions occur~~. Local government reimbursements for subsequent years are made
 15 pursuant to the entitlement share recomputation as provided in 15-1-121(6).

16 (b) (i) ~~For fiscal year 2012 and all other~~ fiscal years in which rate reductions or effective tax rate
 17 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
 18 that is attributable to personal property taxes that are not a lien on real property for each local government. By
 19 August 1 following each of those fiscal years, the department shall distribute the amount determined under this
 20 subsection (2)(b)(i) for local governments as provided in 15-1-121(6)(a).

21 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
 22 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
 23 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property for each local
 24 government. By June 15, 2014, the department shall distribute the amount determined under this subsection
 25 (2)(b)(ii) for local governments as provided in 15-1-121(6)(a).

26 (3) (a) The office of public instruction shall distribute the ~~reimbursement~~ **reimbursements** calculated in
 27 subsection (1) to school districts with the block grants pursuant to 20-9-630 ~~for fiscal year 2012 and all other fiscal~~
 28 ~~years in which rate reductions occur~~. School district reimbursements for subsequent fiscal years are made
 29 pursuant to 20-9-630.

30 (b) (i) ~~For fiscal year 2012 and all other~~ fiscal years in which rate reductions or effective tax rate

1 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
 2 that is attributable to personal property taxes that are not a lien on real property for each school district. By
 3 November 30 following each of those fiscal years, the office of public instruction shall distribute the amount
 4 determined under this subsection (3)(b)(i) in the same manner as the block grant is distributed by fund under
 5 20-9-630.

6 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
 7 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
 8 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property for each school
 9 district. By November 30, 2014, the office of public instruction shall distribute the amount determined under this
 10 subsection (3)(b)(ii) in the same manner as the block grant is distributed by fund under 20-9-630.

11 ~~(4) (a) For each fiscal year beginning after fiscal year 2012 and all other fiscal years in which rate~~
 12 ~~reductions occur, the~~ The amount determined under subsection (1) for each tax increment financing district must
 13 be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if
 14 the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a
 15 reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax
 16 increment financing district at the same time as other districts.

17 (b) ~~(i) For fiscal year 2012 and all other fiscal years in which rate reductions~~ or effective tax rate
 18 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
 19 that is attributable to personal property taxes that are not a lien on real property for each tax increment financing
 20 district. By August 1 following each of those fiscal years, the department shall distribute the amount determined
 21 under this subsection (4)(b)(i) to each tax increment financing district as provided in 15-1-121(8) and to any other
 22 tax increment financing district that is entitled to a reimbursement under this section.

23 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
 24 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
 25 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property for each tax
 26 increment financing district. By June 15, 2014, the department shall distribute the amount determined under this
 27 subsection (4)(b)(ii) to each tax increment financing district as provided in 15-1-121(8) and to any other tax
 28 increment financing district that is entitled to a reimbursement under this section.

29 (5) (a) ~~For fiscal year 2012 and all other fiscal years in which rate reductions occur, the~~ The amount
 30 determined under subsection (1) for the 6-mill university levy must be added to current collections and

1 reimbursements for the support of the Montana university system as provided in 15-10-108.

2 (b) (i) For ~~fiscal year 2012 and all other~~ fiscal years in which rate reductions or effective tax rate
3 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
4 that is attributable to personal property taxes that are not a lien on real property for the 6-mill university levy. By
5 August 1 following each of those fiscal years, the department of administration shall transfer the amount
6 determined under this subsection (5)(b)(i) from the general fund to the state special revenue fund for the support
7 of the Montana university system as provided in 15-10-108.

8 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
9 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
10 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property for the 6-mill
11 university levy. By August 1, 2014, the department of administration shall transfer the amount determined under
12 this subsection (5)(b)(ii) from the general fund to the state special revenue fund for the support of the Montana
13 university system as provided in 15-10-108.

14 (c) Beginning in fiscal year 2013, the department of administration shall transfer the amounts determined
15 under this subsection (5) from the general fund to the state special revenue fund for the support of the Montana
16 university system as provided in 15-10-108.

17 (6) (a) The office of public instruction shall distribute the ~~reimbursement~~ reimbursements calculated in
18 subsection (1) to the countywide retirement fund under 20-9-501 for fiscal year 2012 and all other fiscal years
19 in which rate reductions occur. One-half of the amount must be distributed in November and the remainder in
20 May.

21 (b) (i) For ~~fiscal year 2012 and all other~~ fiscal years in which rate reductions or effective tax rate
22 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
23 that is attributable to personal property taxes that are not a lien on real property in the county. By November 30
24 following each of those fiscal years, the office of public instruction shall distribute the amount determined under
25 this subsection (6)(b)(i) to the countywide retirement fund.

26 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
27 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
28 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property in the county. By
29 November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection
30 (6)(b)(ii) to the countywide retirement fund.

1 (7) (a) The office of public instruction shall distribute the ~~reimbursement~~ reimbursements calculated in
 2 subsection (1) to the county transportation reimbursement under 20-10-146 ~~for fiscal year 2012 and all other fiscal~~
 3 ~~years in which rate reductions occur~~. The reimbursement must be made at the same time as countywide school
 4 transportation block grants are distributed under 20-9-632.

5 (b) (i) ~~For fiscal year 2012 and all other fiscal years in which rate reductions~~ or effective tax rate
 6 reductions occur, the department shall determine from the amount calculated under subsection (1) the amount
 7 that is attributable to personal property taxes that are not a lien on real property in the county. By November 30
 8 following each of those fiscal years, the office of public instruction shall distribute the amount determined under
 9 this subsection (7)(b)(i) to the county transportation reimbursement.

10 (ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the
 11 reimbursement for the reduction of the tax rate for certain air and water pollution control equipment in
 12 15-6-138(1)(n) that is attributable to personal property taxes that are not a lien on real property in the county. By
 13 November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection
 14 (7)(b)(ii) to the county transportation reimbursement."

15
 16 **Section 2.** Section 15-6-135, MCA, is amended to read:

17 **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property includes:

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

21 (b) air and water pollution control equipment as defined in this section for owners of property subject to
 22 central assessment under 15-23-101;

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

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

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

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

29 (g) all property used and owned by persons, firms, corporations, or other organizations that are engaged
 30 in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities

1 and towns of 1,200 permanent residents or less.

2 (2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,
3 machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing,
4 abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the
5 creation of air or water pollutants that, except for the use of the item, would be released to the environment.
6 Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices,
7 or equipment is not eligible for certification under this section.

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

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

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

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

25 (b) New industrial property does not include:

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

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

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

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

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

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

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

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

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

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

15 (5) Class five property is taxed at 3% of its market value."
16

17 **Section 3.** Section 15-6-138, MCA, is amended to read:

18 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
19 includes:

20 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

21 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
22 except those included in class five under 15-6-135;

23 (c) for oil and gas production, all:

24 (i) machinery;

25 (ii) fixtures;

26 (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water
27 storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas
28 metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is
29 skidable, portable, or movable;

30 (iv) tools that are not exempt under 15-6-219; and

- 1 (v) supplies except those included in class five;
- 2 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
3 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
4 as provided in 15-6-220, and supplies except those included in class five;
- 5 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
6 specifically included and taxed in another class or that are rented under a purchase incentive rental program as
7 defined in 15-6-202(4);
- 8 (f) special mobile equipment as defined in 61-1-101;
- 9 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
10 commercial establishments as defined in this section;
- 11 (h) x-ray and medical and dental equipment;
- 12 (i) citizens' band radios and mobile telephones;
- 13 (j) radio and television broadcasting and transmitting equipment;
- 14 (k) cable television systems;
- 15 (l) coal and ore haulers;
- 16 (m) theater projectors and sound equipment; ~~and~~
- 17 (n) air and water pollution control equipment, unless it is property that is subject to central assessment
18 under 15-23-101; and
- 19 ~~(n)~~(o) all other property that is not included in any other class in this part, except that property that is
20 subject to a fee in lieu of a property tax.
- 21 (2) As used in this section, the following definitions apply:
- 22 (a) "Air and water pollution control equipment" has the meaning provided in 15-6-135(2)(a), except the
23 certification requirements provided in 15-6-135(2)(b) through (2)(d) only apply to owners of property subject to
24 central assessment under 15-23-101.
- 25 ~~(a)~~(b) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that
26 are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying
27 environment.
- 28 ~~(b)~~(c) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or
29 service, wholesale, retail, or food-handling business.
- 30 ~~(c)~~(d) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas

1 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,
2 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil
3 transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

4 (3) Except as provided in 15-24-1402, 15-24-2102, and subsection (4) of this section class eight property
5 is taxed at:

6 (a) as determined pursuant to subsection (4):

7 (i) for the first \$2 million of taxable market value, 2%; or

8 (ii) for the first \$3 million of taxable market value, 1.5%; and

9 (b) for all taxable market value in excess of the applicable amount of taxable market value in subsection
10 (3)(a), 3%.

11 (4) (a) The adjusted taxable market value and rate in subsection (3)(a)(i) apply for class eight property
12 unless in any year beginning with fiscal year 2013 the revenue collected from individual income tax and
13 corporation income tax exceeds the revenue collected from individual income tax and corporation income tax in
14 the previous fiscal year by more than 4%. In that case, for tax years beginning after the next December 31, the
15 taxable market value and rate in subsection (3)(a)(ii) apply.

16 (b) For the purpose of making the determination required in subsection (4)(a), the department of
17 administration shall certify to the secretary of state, by August 1 of each year in which class eight property is not
18 taxed pursuant to subsection (3)(a)(ii), the amount of unaudited individual income tax and corporation income
19 tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting, and human
20 resource system records are closed in July.

21 (5) The class eight property of a person or business entity that owns an aggregate of \$20,000 or less
22 in market value of class eight property is exempt from taxation.

23 (6) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services
24 to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and
25 centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to
26 central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all
27 affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be
28 aggregated for purposes of determining the 500-mile threshold."

29

30 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,

1 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

2

3 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

4

5 NEW SECTION. **Section 6. Applicability.** [This act] applies to property tax years beginning after
6 December 31, 2013.

7

- END -