



AN ACT PROVIDING FOR PROPERTY TAXATION AND CLASSIFICATION OF QUALIFIED DATA CENTERS AND RELATED PROPERTY; CREATING A CLASS SEVENTEEN PROPERTY TAX CLASSIFICATION FOR QUALIFIED DATA CENTERS; PROVIDING FOR LOCAL ASSESSMENT OF QUALIFIED DATA CENTERS AND CENTRAL ASSESSMENT OF DEDICATED COMMUNICATIONS INFRASTRUCTURE; PROVIDING A REDUCED TAX RATE FOR DEDICATED COMMUNICATIONS INFRASTRUCTURE FOR A 15-YEAR PERIOD; PROVIDING FOR NEW OR EXPANDING INDUSTRY PROPERTY TAX ABATEMENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-6-156, 15-23-101, AND 15-24-1401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, no large-scale commercial data centers currently operate in Montana; and

WHEREAS, Montana's current property tax classes and assessment methodologies prevent large data center operators from locating in Montana due to valuation uncertainty and noncompetitive tax rates; and

WHEREAS, Montana needs to create a new property tax class and valuation certainty while expanding existing abatements and incentives to allow local governments in Montana to compete against locations outside Montana for data center investment.

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

Section 1. Class seventeen property -- description -- taxable percentage. (1) Class seventeen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135 of a qualified data center.

(2) (a) "Qualified data center" means the land, improvements, and personal property of a facility designed or modified to house networked computers or equipment supporting computing, networking, or data storage that is:

(i) composed of one or more buildings under single ownership on contiguous parcels of land that consist of at least 300,000 square feet, where the total cost of land, improvements, personal property, and software is

at least \$150 million; and

(ii) commences construction after June 30, 2017.

(b) The term includes but is not limited to:

(i) cooling systems, cooling towers, and other temperature infrastructure;

(ii) power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the facility, such as exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and

(iii) any other equipment necessary for the maintenance and operation of the facility.

(3) During construction, property not meeting the requirements of subsection (2) must be classified as class seventeen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the requirements of subsection (2) within 2 years of the date of the certification.

(4) The taxable property of a qualified data center must be locally assessed.

(5) (a) Class seventeen property includes centrally assessed interstate or intrastate dedicated communications infrastructure that is owned or leased by the owner of a qualified data center and is composed of telecommunication or data lines, equipment, and services, including but not limited to copper or fiber optic lines or microwave, satellite, or other wireless communication systems.

(b) To qualify under this subsection (5), construction of the owned or leased interstate or intrastate communications infrastructure must commence after June 30, 2017, and before July 1, 2027, and must satisfy the criteria of this section.

(c) Dedicated communications infrastructure provided for in this subsection (5) is taxed at the rate provided for in subsection (6) for a period of 15 years from the time that construction commences. After the 15-year period, the dedicated communications infrastructure is taxed as class thirteen property at the rate provided in 15-6-156.

(6) Class seventeen property is taxed at 0.9% of its market value.

Section 2. Section 15-6-156, MCA, is amended to read:

"15-6-156. Class thirteen property -- description -- taxable percentage. (1) Except as provided in subsections (2)(a) through ~~(2)(g)~~ (2)(h), class thirteen property includes:

(a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

(b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any electrical energy producer; ~~and~~

(d) allocations of centrally assessed telecommunications services companies; and

(e) dedicated communications infrastructure described in [section 1(5)] for which construction commenced after June 30, 2027, or for which the 15-year period provided for in [section 1(5)(c)] has expired.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or 15-6-157;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified under 15-6-135;

(f) property owned by organizations providing telecommunications services and classified under 15-6-135; ~~and~~

(g) generation facilities that are exempt under 15-6-225; and

(h) qualified data centers classified under [section 1].

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138.

(4) Class thirteen property is taxed at 6% of its market value."

Section 3. Section 15-23-101, MCA, is amended to read:

"15-23-101. Properties centrally assessed. The department shall centrally assess each year:

(1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state including but not limited to:

(a) telegraph, telephone, microwave, and electric power or transmission lines;

(b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service commission or the federal energy regulatory commission;

(c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15102(2);

(d) natural gas distribution utilities;

(e) the gas gathering facilities specified in 15-6-138(5);

(f) the dedicated communications infrastructure specified in [section 1(5)];

~~(f)~~(g) canals, ditches, flumes, or like properties; and

~~(g)~~(h) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(3) all property of scheduled airlines;

(4) the net proceeds of mines, except bentonite mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,

part 12."

Section 4. Section 15-24-1401, MCA, is amended to read:

"15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

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

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

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

(e) earns 50% or more of its annual gross income from out-of-state sales; ~~or~~

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225; or

(g) operates a qualified data center or dedicated communications infrastructure classified under [section 1].

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested after July 1, 1987, at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New industry does not include property treated as new industrial property under 15-6-135.

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Applicability. [This act] applies to tax years beginning after December 31, 2017.

- END -

I hereby certify that the within bill,
SB 0359, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2017.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2017.

SENATE BILL NO. 359

INTRODUCED BY M. BLASDEL, E. BUTTREY, W. GALT, A. HERTZ, J. KNOKEY, A. KNUDSEN, S. LAVIN,
R. LYNCH, D. MORTENSEN, J. PATELIS, F. THOMAS, G. VUCKOVICH, R. WEBB

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