

SENATE BILL NO. 372

INTRODUCED BY B. TUTVEDT

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE TAXATION FOR A PORTION OF THE TAXABLE MARKET VALUE OF CLASS EIGHT BUSINESS EQUIPMENT OWNED BY A TAXPAYER; PROVIDING FUTURE TAX REDUCTIONS CONTINGENT ON INCREASES IN STATE COLLECTIONS OF INDIVIDUAL INCOME TAX AND CORPORATION LICENSE TAX ~~OVER THE REVENUE ESTIMATED AMOUNT~~; CHANGING OTHER PROVISIONS RELATING TO TAXATION OF CLASS EIGHT PROPERTY; PROVIDING A PARTIAL REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS UNDER THE ENTITLEMENT SHARE PAYMENT, TO SCHOOL DISTRICTS THROUGH THE BLOCK GRANT PROGRAM, AND TO THE MONTANA UNIVERSITY SYSTEM THROUGH SUPPORT OF PUBLIC EDUCATION INSTITUTIONS FOR THE LOSS OF CLASS EIGHT AND CLASS TWELVE PROPERTY TAX REVENUE; AMENDING SECTIONS 15-6-138, 15-6-141, AND 15-23-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-138, MCA, is amended to read:

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

- (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135;
- (c) for oil and gas production, all:
 - (i) machinery;
 - (ii) fixtures;
 - (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

- 1 (iv) tools that are not exempt under 15-6-219; and
- 2 (v) supplies except those included in class five;
- 3 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
- 4 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
- 5 as provided in 15-6-220, and supplies except those included in class five;
- 6 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
- 7 specifically included and taxed in another class or that are rented under a purchase incentive rental program as
- 8 defined in 15-6-202(4);
- 9 (f) special mobile equipment as defined in 61-1-101;
- 10 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
- 11 commercial establishments as defined in this section;
- 12 (h) x-ray and medical and dental equipment;
- 13 (i) citizens' band radios and mobile telephones;
- 14 (j) radio and television broadcasting and transmitting equipment;
- 15 (k) cable television systems;
- 16 (l) coal and ore haulers;
- 17 (m) theater projectors and sound equipment; and
- 18 (n) all other property that is not included in any other class in this part, except that property that is subject
- 19 to a fee in lieu of a property tax.

20 (2) As used in this section, the following definitions apply:

21 (a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are

22 primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

23 (b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,

24 wholesale, retail, or food-handling business.

25 (c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas

26 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,

27 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil

28 transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

29 (3) Except as provided in 15-24-1402, ~~and 15-24-2101, and subsection (4) of this section~~ class eight

30 property is taxed at:

(a) AS DETERMINED PURSUANT TO SUBSECTION (4):

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

(ii) FOR THE FIRST \$3 MILLION OF TAXABLE MARKET VALUE, 1.5%; AND

(b) for all taxable market value in excess of \$2 million THE APPLICABLE AMOUNT OF TAXABLE MARKET VALUE IN SUBSECTION (3)(A), 3% of its market value.

(4) (a) If THE ADJUSTED TAXABLE MARKET VALUE AND RATE IN SUBSECTION (3)(A)(I) APPLY FOR CLASS EIGHT PROPERTY UNLESS in any year beginning with fiscal year 2011 2012 the percentage growth in revenue collected from individual income tax and corporation income tax exceeds the current law estimated revenues for those taxes in the revenue estimating resolution under 5-5-227(2) for the same REVENUE COLLECTED FROM INDIVIDUAL INCOME TAX AND CORPORATION INCOME TAX IN THE PREVIOUS fiscal year by more than 0.75%, then 4%. IN THAT CASE, for tax years beginning after the next December 31:

—— (i) the tax rate for the first \$2 million in taxable class eight property is reduced by 0.5%; and

—— (ii) (A) if the tax rate decreases to 1%, the \$2 million bracket is increased to \$3 million; and

—— (B) if the tax rate decreases to 0%, the \$2 million bracket is increased to \$4 million, THE TAXABLE MARKET VALUE AND RATE IN SUBSECTION (3)(A)(II) APPLY.

(b) For the purpose of making the determination required in subsection (4)(a), the department of administration shall certify to the secretary of state, by August 1 of each year in which the tax rate for the first \$2 million in taxable class eight property exceeds 0% CLASS EIGHT PROPERTY IS NOT TAXED PURSUANT TO SUBSECTION (3)(A)(II), the amount of unaudited individual income tax and corporation income tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting, and human resource system records are closed in July.

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

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

1 **NEW SECTION. Section 2. Partial reimbursement for class eight rate reduction and exemption**

2 **-- distribution.** (1) For the tax rate reductions in 15-6-138 and for the effective tax rate reductions on property
3 under 15-6-145 because of the rate reductions required by the amendment of 15-6-138 in [section 1], the
4 department shall, by June 1, 2012, and for each calendar year that the tax rate is adjusted under 15-6-138(4),
5 estimate for each local government, as defined in [15-1-121(5) as amended by House Bill No. 26], each school
6 district, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108, 90%
7 of the difference between property tax collections under 15-6-138, as amended by [section 1], and under
8 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
9 had not been amended by [section 1]. The difference is the annual reimbursable amount for each local
10 government, each school district, each tax increment financing district, and the 6-mill levy for the support of the
11 Montana university system under 15-10-108.

12 (2) (a) The department shall distribute the reimbursement to local governments with the entitlement share
13 payments for fiscal year 2012 and for all other fiscal years in which rate reductions occur under [15-1-121(7) as
14 amended by House Bill No. 26]. Local government reimbursements for subsequent years are made pursuant to
15 the entitlement share recomputation as provided in [15-1-121(6) as amended by House Bill No. 26].

16 (b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall
17 determine from the amount calculated under subsection (1) the amount that is attributable to personal property
18 taxes that are not a lien on real property for each local government. By June 15 of each of those years, the
19 department shall distribute the amount determined under this subsection (2)(b) for local governments as provided
20 in [15-1-121(6)(a) as amended by House Bill No. 26].

21 (3) (a) The office of public instruction shall distribute the reimbursement to school districts with the block
22 grants pursuant to 20-9-630 for fiscal year 2012 and all other fiscal years in which rate reductions occur. School
23 district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.

24 (b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall
25 determine from the amount calculated under subsection (1) the amount that is attributable to personal property
26 taxes that are not a lien on real property for each school district. By June 15 of each of those years, the office of
27 public instruction shall distribute the amount determined under this subsection (3)(b) in the same manner as the
28 block grant is distributed by fund under 20-9-630.

29 (4) (a) For each fiscal year beginning after fiscal year 2012 and all other fiscal years in which rate
30 reductions occur, the amount determined under subsection (1) for each tax increment financing district must be

1 added to the reimbursement amount for the tax increment financing district as provided in [15-1-121(8)(b) as
2 amended by House Bill No. 26] if the tax increment financing district is still in existence. If a tax increment
3 financing district that is entitled to a reimbursement under this section is not listed under [15-1-121(8) as amended
4 by House Bill No. 26], the reimbursement must be made to that tax increment financing district at the same time
5 as other districts.

6 (b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall
7 determine from the amount calculated under subsection (1) the amount that is attributable to personal property
8 taxes that are not a lien on real property for each tax increment financing district. By June 15, 2012, the
9 department shall distribute the amount determined under this subsection (4)(b) to each tax increment financing
10 district as provided in [15-1-121(8)(b) as amended by House Bill No. 26] and to any other tax increment financing
11 district that is entitled to a reimbursement under this section.

12 (5) (a) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the amount
13 determined under subsection (1) for the 6-mill university levy must be added to current collections and
14 reimbursements for the support of the Montana university system as provided in 15-10-108.

15 (b) For fiscal year 2012 and all other fiscal years in which rate reductions occur, the department shall
16 determine from the amount calculated under subsection (1) the amount that is attributable to personal property
17 taxes that are not a lien on real property for the 6-mill university levy. By June 15, 2012, the department shall
18 distribute the amount determined under this subsection (5)(b) for the support of the Montana university system
19 as provided in 15-10-108.

20
21 **Section 3.** Section 15-6-141, MCA, is amended to read:

22 **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

23 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an
24 electric power company that owns or operates transmission or distribution facilities or both, including, if congress
25 passes legislation that allows the state to tax property owned by an agency created by congress to transmit or
26 distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created
27 by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not
28 including rural electric cooperatives. However, rural electric cooperatives' property, except wind generation
29 facilities and biomass generation facilities classified under 15-6-157, used for the sole purpose of serving
30 customers representing less than 95% of the electric consumers located within the incorporated limits of a city

1 or town of more than 3,500 persons in which a centrally assessed electric power company also owns property
2 or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by
3 a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included.
4 For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters,
5 office, shop, or other similar facility.

6 (b) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas
7 transmission or oil transmission pipelines regulated by either the public service commission or the federal energy
8 regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49
9 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138~~(5)~~(6); and

10 (c) centrally assessed companies' allocations except:

11 (i) electrical generation facilities classified under 15-6-156;

12 (ii) all property classified under 15-6-157;

13 (iii) all property classified under 15-6-158 and 15-6-159;

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

16 (v) property owned by organizations providing telephone communications to rural areas and classified
17 under 15-6-135;

18 (vi) railroad transportation property included in 15-6-145;

19 (vii) airline transportation property included in 15-6-145; and

20 (viii) telecommunications property included in 15-6-156.

21 (2) Class nine property is taxed at 12% of market value."
22

23 **Section 4.** Section 15-23-101, MCA, is amended to read:

24 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

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

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

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

30 (b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service

1 commission or the federal energy regulatory commission;

2 (c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C.
3 15102(2);

4 (d) natural gas distribution utilities;

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

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

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

11 (3) all property of scheduled airlines;

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

13 (5) the gross proceeds of coal mines; and

14 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,
15 part 12."

16
17 **NEW SECTION. Section 5. Notification to tribal governments.** The secretary of state shall send a
18 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
19 Chippewa tribe.

20
21 **NEW SECTION. Section 6. Codification instruction.** [Section 2] is intended to be codified as an
22 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 2].

23
24 **COORDINATION SECTION. Section 7. Coordination instruction.** If House Bill No. 26 is not passed
25 and approved, then [this act] is void.

26
27 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

28
29 **NEW SECTION. Section 9. Applicability.** [This act] applies to tax years beginning after December 31,
30 2011.

31 - END -