

1 SENATE BILL NO. 529
2 INTRODUCED BY G. HERTZ
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX ABATEMENTS FOR
5 COMMUNICATION AND INTERNET PROPERTY; EXEMPTING CERTAIN WIRELESS INFRASTRUCTURE
6 FROM PROPERTY TAXATION; REPEALING THE PROHIBITION ON USING FEDERAL FUNDS WHEN
7 RECEIVING THE FIBER OPTIC OR COAXIAL CABLE ABATEMENT; REQUIRING WIRELESS
8 INFRASTRUCTURE TO BE PLACED IN SERVICE BEFORE A SPECIFIC DATE; PROHIBITING AN
9 ABATEMENT FOR WIRELESS INFRASTRUCTURE IF FEDERAL OR STATE GRANT FUNDS WERE USED;
10 PROVIDING REPORTING REQUIREMENTS; AMENDING SECTIONS 15-6-135, 15-6-156, 15-6-219, AND 15-
11 6-243, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

12

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

14

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

16 **"15-6-135. Class five property -- description -- taxable percentage -- exemption.** (1) Class five
17 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 and carbon capture equipment as defined in this section;

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

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

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

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

**Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - Free Conference
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Drafter: Megan Moore, 406-444-4496

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1 (6) (a) The property taxes exempted from taxation by subsection (5)(b)(ii) are subject to
2 termination or recapture if the department determines that the owner failed to install and place in service new
3 coaxial or fiber cable or wireless infrastructure in Montana as provided in subsection (5)(b)(ii) or otherwise
4 violates the provisions of this section.

5 (b) Upon notice from the department that the owner's exemption has terminated, any local
6 governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for
7 nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the
8 provisions of subsection (5)(b)(ii) was improper. Any recapture must occur within 10 years after the end of the
9 calendar year in which the exemption was first claimed.

10 (c) The recapture of abated taxes may be cancelled, in whole or in part, if the local governing body
11 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
12 of the taxpayer.

13 ~~(7) THE PROPERTY TAX EXEMPTIONS PROVIDED IN THIS SECTION FOR WIRELESS INFRASTRUCTURE MUST~~
14 ~~BE FOR WIRELESS INFRASTRUCTURE INSTALLED IN RURAL AREAS, AREAS WITHIN THE BOUNDARIES OF A FEDERALLY~~
15 ~~RECOGNIZED INDIAN RESERVATION, AND OTHER AREAS OF THE STATE WITH LITTLE OR NO CURRENT WIRELESS SERVICES.~~

16 ~~(7) THE EXEMPTION PROVIDED BY THIS SECTION FOR WIRELESS INFRASTRUCTURE DOES NOT APPLY IF ANY~~
17 ~~PORTION OF THE WIRELESS INFRASTRUCTURE IS INSTALLED OR PLACED INTO SERVICE USING FEDERAL OR STATE~~
18 ~~GRANTS THAT ARE NOT REQUIRED TO BE REPAID."~~

19
20 **Section 2.** Section 15-6-156, MCA, is amended to read:

21 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in
22 subsections (2)(a) through (2)(i), class thirteen property includes:

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

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

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

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

5 (e) dedicated communications infrastructure described in 15-6-162(5) for which construction
6 commenced after June 30, 2027, or for which the 15-year period provided for in 15-6-162(5)(c) has expired.

7 (2) Class thirteen property does not include:

8 (a) property owned by cooperative rural electric cooperative associations classified under 15-6-
9 135;

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

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

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

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

15 (f) property owned by organizations providing telecommunications services and classified under
16 15-6-135;

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

18 (h) qualified data centers classified under 15-6-162; and

19 (i) property classified under 15-6-163.

20 (3) For the purposes of this section, the following definitions apply:

21 (a) (i) "Electrical generation facilities" means any combination of a physically connected generator
22 or generators, associated prime movers, and other associated property, including appurtenant land and
23 improvements and personal property, that are normally operated together to produce electric power. The term
24 includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or
25 gas turbines, turbine generators that are driven by falling water, or solar panel systems.

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

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1 (iii) (A) The term also does not include a qualifying facility certified by the federal energy regulatory
2 commission.

3 (B) To qualify for consideration of an abatement as allowed in 15-24-1402, the requesting entity
4 must disclose, in writing, its intent to request certification as a qualifying facility to the governing body.

5 (C) If the intent is not disclosed and an abatement granted, abatement may be rescinded by the
6 governing body.

7 (D) Certified qualifying facilities are classified under 15-6-134 and 15-6-138.

8 (iv) The term also does not include a facility that is owned and operated by a person not primarily
9 engaged in the generation or sale of electricity other than power from a small power production facility and
10 classified under 15-6-134 and 15-6-138.

11 (b) (i) "Fiber optic or coaxial cable" means any fiber optic or coaxial cable, including all capitalized
12 costs associated with installing and placing in service the fiber optic or coaxial cable, and other property that is
13 normally operated when installing and placing in service fiber optic or coaxial cable to deliver digital
14 communication and access to the internet.

15 (ii) The term does not include routers, head-end equipment, central office equipment and other
16 electronics, or hardware or software not directly associated with installing and placing in service fiber optic or
17 coaxial cable or the buildings used to house equipment.

18 ~~(C) "RURAL AREAS" MEANS AN AREA NOT INCLUDED WITHIN 3 MILES OF THE BOUNDARIES OF AN~~
19 ~~INCORPORATED OR UNINCORPORATED CITY, TOWN, OR VILLAGE HAVING A POPULATION IN EXCESS OF 3,500 PERSONS.~~

20 ~~(e)(D)(C)(i) "Wireless infrastructure" means signal transmission facilities and associated network~~
21 ~~equipment, including all capitalized costs associated with installing and placing these facilities and network~~
22 ~~equipment in service, together with other property that is directly associated with providing wireless service to~~
23 ~~customers, and which includes power equipment, cables, lines, radios, antenna, transceivers, shelters, and~~
24 ~~towers.~~

25 ~~(ii) The term does not include central office equipment and other electronics or hardware or~~
26 ~~software not directly associated with installing and placing wireless infrastructure into service.~~

27 (4) (a) Except as provided in subsection (4)(b), class thirteen property is taxed at 6% of its market

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1 value.

2 (b) (i) ~~Except as provided in subsection (4)(b)(ii), fiber~~ Fiber PURSUANT TO SUBSECTION (6), FIBER
3 FIBER optic or coaxial cable installed and placed in service on or after July 1, 2021, ~~and, SUBJECT TO SUBSECTION~~
4 ~~(6)(A), wireless infrastructure placed in service on or after [the effective date of this act] AND BEFORE JULY 1,~~
5 2031, is exempt from taxation for a period of 5 years starting from the date the fiber optic or coaxial cable or
6 wireless infrastructure was placed in service, after which the property exemption is phased out at a rate of 20%
7 a year, with the property being assessed at 100% of its taxable value after a 10-year period. In order to
8 maintain the exemption, the owner of fiber optic or coaxial cable or wireless infrastructure shall reinvest the tax
9 savings from the exemption by installing and placing in service new fiber optic or coaxial cable or wireless
10 infrastructure in Montana within 2 years from the date the owner first claimed the exemption provided for in this
11 subsection (4)(b) without charging those costs to the consumer. The cost of installing or placing into service
12 fiber optic or coaxial cable or wireless infrastructure with the reinvested tax savings without charging those
13 costs to the consumer must be equal to or greater than the value of the tax savings received from the tax
14 incentive.

15 (ii) ~~Fiber optic or coaxial cable installed using federal funds received pursuant to Section 9901 of the~~
16 ~~American Rescue Plan Act is not eligible for exemption from taxation under this section.~~

17 (iii)(ii) An entity that claims a tax exemption under this subsection (4)(b) shall maintain adequate
18 books and records demonstrating the investment the owner made when installing and placing in service fiber
19 optic or coaxial cable or wireless infrastructure in Montana. The property owners shall make those records
20 available to the department for inspection upon request.

21 (5) (a) The property taxes exempted from taxation by subsection (4)(b) are subject to termination
22 or recapture if the department determines that the owner failed to install and place in service new coaxial or
23 fiber cable or wireless infrastructure in Montana as provided in subsection (4)(b) or otherwise violates the
24 provisions of this section.

25 (b) Upon notice from the department that the owner's exemption has terminated, any local
26 governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for
27 nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the

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1 provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar
2 year in which the exemption was first claimed.

3 (c) The recapture of abated taxes may be cancelled, in whole or in part, if the local governing body
4 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
5 of the taxpayer.

6 ~~(6) THE PROPERTY TAX EXEMPTIONS PROVIDED IN THIS SECTION FOR WIRELESS INFRASTRUCTURE MUST
7 BE FOR WIRELESS INFRASTRUCTURE INSTALLED IN RURAL AREAS, AREAS WITHIN THE BOUNDARIES OF A FEDERALLY
8 RECOGNIZED INDIAN RESERVATION, AND OTHER AREAS OF THE STATE WITH LITTLE OR NO CURRENT WIRELESS SERVICES.~~

9 (6) THE PROPERTY TAX EXEMPTIONS PROVIDED IN THIS SECTION FOR WIRELESS INFRASTRUCTURE:

10 ~~(A) MUST BE FOR WIRELESS INFRASTRUCTURE INSTALLED IN RURAL AREAS, AREAS WITHIN THE
11 BOUNDARIES OF A FEDERALLY RECOGNIZED INDIAN RESERVATION, AND OTHER AREAS OF THE STATE WITH LITTLE OR NO
12 CURRENT WIRELESS SERVICES; AND~~

13 ~~(B) DO NOT APPLY IF ANY PORTION OF THE WIRELESS INFRASTRUCTURE IS INSTALLED OR PLACED INTO
14 SERVICE USING FEDERAL OR STATE GRANTS THAT ARE NOT REQUIRED TO BE REPAID."~~

15

16 **Section 3.** Section 15-6-219, MCA, is amended to read:

17 **"15-6-219. Personal and other property exemptions.** (1) The following categories of property are
18 exempt from taxation:

19 (a) harness, saddlery, and other tack equipment;

20 (b) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
21 hand-held and that are used to:

22 (i) construct, repair, and maintain improvements to real property; or

23 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

24 (c) all household goods and furniture, including but not limited to clocks, musical instruments,
25 sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic
26 purposes or for furnishing or equipping the family residence;

27 (d) a bicycle or a moped, as defined in 61-8-102, used by the owner for personal transportation

