

SENATE BILL NO. 550

INTRODUCED BY D. FERN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CLASS FIVE PROPERTY TO INCLUDE CERTAIN TELECOMMUNICATIONS PROPERTY; AMENDING SECTION 15-6-135, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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

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

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

(b) air and water pollution control and carbon capture equipment as defined in this section;

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

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

(e) machinery and equipment used in electrolytic reduction facilities; and

(f) all property used and owned by persons, firms, corporations, or other organizations that:

(i) are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less; or

(ii) furnish telecommunications services in or own property in not more than three counties.

(2) (a) "Air and water pollution control and carbon capture equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment certified as provided in subsections (2)(b) and (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating,

1 eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or
2 water pollutants that, except for the use of the item, would be released to the environment. This includes
3 machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in
4 pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment
5 is not eligible for certification under this section.

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

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

17 (d) To qualify for the exemption under subsection (3)(b)(i), the air and water pollution control and
18 carbon capture equipment must be placed into service after January 1, 2014, for the purposes of environmental
19 benefit or to comply with state or federal pollution control regulations. If the air or water pollution control and
20 carbon capture equipment enhances the performance of existing air and water pollution control and carbon
21 capture equipment, only the market value of the enhancement is subject to the exemption under subsection
22 (3)(b)(i).

23 (e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption
24 under subsection (3)(b)(i) includes but is not limited to equipment placed into service to maintain, replace, or
25 repair equipment installed on or before January 1, 2014.

26 (f) A person may appeal the certification, classification, and valuation of the property to the
27 Montana tax appeal board. Appeals on the property certification must name the department of environmental
28 quality as the respondent, and appeals on the classification or valuation of the equipment must name the

1 department of revenue as the respondent.

2 (3) (a) Except as provided in subsection (3)(b), class five property is taxed at 3% of its market
3 value.

4 (b) (i) Air and water pollution control and carbon capture equipment placed in service after January
5 1, 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation.

6 (ii) (A) Except as provided in subsection (3)(b)(ii)(B), fiber optic or coaxial cable, as defined in 15-
7 6-156, installed and placed in service on or after July 1, 2021, is exempt from taxation for a period of 5 years
8 starting from the date the fiber optic or coaxial cable was placed in service, after which the property exemption
9 is phased out at a rate of 20% a year, with the property being assessed at 100% of its taxable value after a 10-
10 year period. In order to maintain the exemption, the owner of fiber optic or coaxial cable shall reinvest the tax
11 savings from the exemption by installing and placing in service new fiber optic or coaxial cable in Montana
12 within 2 years from the date the owner first claimed the exemption provided for in this subsection (3)(b)(ii)
13 without charging those costs to the consumer. The cost of installing or placing into service fiber optic or coaxial
14 cable with the reinvested tax savings without charging those costs to the consumer must be equal to or greater
15 than the value of the tax savings received from the tax incentive.

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

18 (C) An entity that claims a tax exemption under this subsection (3)(b)(ii) shall maintain adequate
19 books and records demonstrating the investment the owner made when installing and placing in service fiber
20 optic or coaxial cable in Montana. The property owners shall make those records available to the department
21 for inspection upon request.

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

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

1 provisions of subsection (3)(b)(ii) was improper. Any recapture must occur within 10 years after the end of the
2 calendar year in which the exemption was first claimed.

3 (c) The recapture of abated taxes may be canceled, 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."

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7 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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9 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
10 meaning of 1-2-109, to property tax years beginning after December 31, 2024.

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