

## 1 SENATE BILL NO. 359

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PROPERTY TAXATION AND CLASSIFICATION  
6 OF QUALIFIED DATA CENTERS AND RELATED PROPERTY; CREATING A CLASS SEVENTEEN PROPERTY  
7 TAX CLASSIFICATION FOR QUALIFIED DATA CENTERS; PROVIDING FOR LOCAL ASSESSMENT OF  
8 QUALIFIED DATA CENTERS AND CENTRAL ASSESSMENT OF DEDICATED COMMUNICATIONS  
9 INFRASTRUCTURE; PROVIDING FOR NEW OR EXPANDING INDUSTRY PROPERTY TAX ABATEMENTS;  
10 PROVIDING DEFINITIONS; AMENDING SECTIONS 15-6-156, 15-23-101, AND 15-24-1401, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

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22 **NEW SECTION. Section 1. Class seventeen property -- description -- taxable percentage.** (1) Class  
23 seventeen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt  
24 under 15-6-219, and supplies except those included in class five under 15-6-135 of a qualified data center and  
25 its dedicated communications infrastructure.

26 (2) For the purposes of this section, the following definitions apply:

27 (a) "Dedicated communications infrastructure" means telecommunications or data lines, equipment, and  
28 services, including but not limited to copper or fiber optic lines or microwave, satellite, or other wireless  
29 communications systems, that are owned or leased by the owner of a qualified data center and devoted at least  
30 50% to data transfer associated with a qualified data center.

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

4 (A) composed of one or more buildings that consist in the aggregate of at least 150,000 square feet,  
 5 where the total cost of land, improvements, personal property, and software is at least \$50 million; and

6 (B) constructed after June 30, 2017.

7 (ii) The term includes but is not limited to:

8 (A) cooling systems, cooling towers, and other temperature infrastructure;

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

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

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

17 (4) The interstate or intercounty portions of dedicated communications infrastructure may be centrally  
 18 assessed, but the fair market value of dedicated communications infrastructure is the original cost less book  
 19 depreciation.

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

21 (6) Class seventeen property is taxed at 0.5% of its market value.

22

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

24 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in  
 25 subsections (2)(a) through ~~(2)(g)~~ (2)(h), class thirteen property includes:

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

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

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 electrical  
3 energy producer; and

4 (d) allocations of centrally assessed telecommunications services companies.

5 (2) Class thirteen property does not include:

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

7 (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or  
8 15-6-157;

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

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

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

12 (f) property owned by organizations providing telecommunications services and classified under  
13 15-6-135; ~~and~~

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

15 (h) property classified under [section 1].

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

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

23 (c) The term also does not include a qualifying small power production facility, as that term is defined  
24 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of  
25 electricity other than electric power from a small power production facility and classified under 15-6-134 and  
26 15-6-138.

27 (4) Class thirteen property is taxed at 6% of its market value."  
28

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

30 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

- 1 (1) the railroad transportation property of railroads and railroad car companies operating in more than  
 2 one county in the state or more than one state;
- 3 (2) property owned by a corporation or other person operating a single and continuous property operated  
 4 in more than one county or more than one state including but not limited to:
- 5 (a) telegraph, telephone, microwave, and electric power or transmission lines;
- 6 (b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service  
 7 commission or the federal energy regulatory commission;
- 8 (c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C.  
 9 15102(2);
- 10 (d) natural gas distribution utilities;
- 11 (e) the gas gathering facilities specified in 15-6-138(5);
- 12 (f) the dedicated communications infrastructure specified in [section 1(2)(a)];
- 13 ~~(f)(g)~~ canals, ditches, flumes, or like properties; and
- 14 ~~(g)(h)~~ if congress passes legislation that allows the state to tax property owned by an agency created  
 15 by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public  
 16 agency created by congress to transmit or distribute electrical energy produced at privately owned generating  
 17 facilities, not including rural electric cooperatives;
- 18 (3) all property of scheduled airlines;
- 19 (4) the net proceeds of mines, except bentonite mines;
- 20 (5) the gross proceeds of coal mines; and
- 21 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,  
 22 part 12."

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

25 **"15-24-1401. Definitions.** The following definitions apply to 15-24-1402 unless the context requires  
 26 otherwise:

- 27 (1) "Expansion" means that the industry has added after July 1, 1987, at least \$50,000 worth of qualifying  
 28 improvements or modernized processes to its property within the same jurisdiction either in the first tax year in  
 29 which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.
- 30 (2) "Industry" includes but is not limited to a firm that:

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

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

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

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

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

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

12 (g) operates a qualified data center or dedicated communications infrastructure classified under [section  
 13 1].

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

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

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

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 25 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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 27 **NEW SECTION. Section 7. Applicability.** [This act] applies to tax years beginning after December 31,  
 28 2017.

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