

BALLOT LANGUAGE FOR INITIATIVE NO. 172 (I-172)

INITIATIVE NO. 172

A LAW PROPOSED BY INITIATIVE PETITION

I-172 changes the property rates for the video portion of cable television property for companies that provide physically bundled services of cable television, phone and high speed internet. In 2009, the Department of Revenue determined that a company that upgraded its cable television services to include bundled telecommunication services should be assessed a higher rate, and sought retroactive property tax payments going back to 2006. This determination increased the property taxes owed by the company. I-172 would reverse this increase by moving “cable television systems” from a higher property tax classification (Class 13) into a lower property tax classification (Class 8). I-172 applies retroactively to tax year 2006.

I-172 will result in the reduction of state general fund revenue and state special revenue due to the retroactive application of the law to tax year 2006 and reductions in incoming revenue from 2015 and each year thereafter. Local governments would also see a reduction in taxable valuations.

YES on Initiative I-172

NO on Initiative I-172

THE COMPLETE TEXT OF INITIATIVE NO. 172 (I-172)

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

NEW SECTION. Section 1. Findings. The purpose of [this act] is to address recent revisions to the way the department of revenue classifies cable television companies that also provide consumers with phone and high speed internet services. These changes resulted in retroactive increases in Montana's property taxation of cable television companies by more than 300%. If this 300% tax increase becomes permanent, Montana consumers will suffer if companies are forced to curtail services or diminish high speed internet and high-definition television expansion in the state. [This act] simplifies the property taxation of cable television companies that also provide phone and internet services by restoring to their prior property tax classification and protects the services and low costs currently offered to the people of the state of Montana.

Section 2. 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;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;
(i) citizens' band radios and mobile telephones;
(j) radio and television broadcasting and transmitting equipment;
(k) cable television systems;
(l) coal and ore haulers;
(m) theater projectors and sound equipment; and
(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

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

(a) "Cable franchise fees" means fees paid as a percentage of gross revenue from the operations of a cable system to provide cable service as those terms are defined in 47 U.S.C. 522.

(b) "Cable television systems" means property which is used in whole or in part to deliver services that generate cable subscriber revenue subject to cable franchise fees.

(c) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

~~(b)~~(d) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

~~(e)~~(e) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

(3) Except as provided in 15-24-1402 and 15-24-2102, class eight property is taxed at:

(a) for the first \$6 million of taxable market value in excess of the exemption amount in subsection (4), 1.5%; and

(b) for all taxable market value in excess of \$6 million, 3%.

(4) The first \$100,000 of market value of class eight property of a person or business entity is exempt from taxation.

(5) 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."

Section 3. 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), 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, except cable television systems classified under 15-6-138.

(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) cable television systems classified under 15-6-138, including but not limited to cable television systems owned by companies providing telecommunications services.

(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."

NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5. Effective Date.** [This act] is effective upon approval by the electorate.

NEW SECTION. **Section 6. Retroactive Applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2005.