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## HOUSE BILL NO. 636

INTRODUCED BY D. FUCHS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION; ENACTING A 4 PERCENT SALES TAX AND USE TAX; ALLOWING CERTAIN SALES TAX AND USE TAX EXEMPTIONS; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; ELIMINATING MONTANA INDIVIDUAL INCOME TAXATION; REVISING THE DEFINITION OF CORPORATION AS USED IN THE CONTEXT OF THE CORPORATION LICENSE TAX; REVISING THE TAXATION OF OWNER-OCCUPIED RESIDENTIAL PROPERTY; ~~INCREASING ELECTRICAL ENERGY GENERATOR TAXES;~~ PROVIDING THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 5-12-303, 7-13-308, 7-14-1133, 7-14-1636, 7-34-2415, 13-37-218, 15-1-102, 15-1-205, 15-1-206, 15-1-208, 15-1-211, 15-1-302, 15-1-501, 15-1-503, 15-2-201, 15-2-302, 15-6-134, 15-6-191, 15-6-201, 15-7-103, 15-8-111, 15-31-101, 15-31-102, 15-31-113, 15-31-114, 15-31-131, 15-31-135, 15-31-137, 15-31-150, 15-31-151, 15-31-161, 15-31-203, 15-31-702, 15-32-104, 15-32-106, 15-32-303, 15-32-402, 15-32-405, 15-32-502, 15-32-503, 15-32-505, 15-32-510, 15-32-602, 15-32-603, 15-32-610, 15-33-106, 15-50-207, ~~15-51-101,~~ 15-61-203, 15-62-201, 15-62-204, 15-63-201, 15-63-203, 15-70-221, 15-70-356, 16-1-306, 16-1-411, 16-2-301, 16-11-110, 17-6-316, 17-7-111, 19-2-1004, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 19-50-101, 20-25-504, 33-17-407, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 39-51-1109, 39-51-1301, 39-51-2402, 40-4-202, 40-5-206, 40-5-818, 53-2-211, 53-2-503, 67-11-303, 80-12-211, 87-2-102, 87-2-105, 87-5-121, AND 90-8-202, MCA; REPEALING SECTIONS 7-34-2416, 15-1-230, 15-30-101, 15-30-102, 15-30-103, 15-30-105, 15-30-106, 15-30-107, 15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-124, 15-30-125, 15-30-126, 15-30-127, 15-30-128, 15-30-129, 15-30-131, 15-30-132, 15-30-133, 15-30-134, 15-30-135, 15-30-136, 15-30-137, 15-30-138, 15-30-141, 15-30-142, 15-30-143, 15-30-144, 15-30-145, 15-30-146, 15-30-147, 15-30-148, 15-30-149, 15-30-150, 15-30-151, 15-30-152, 15-30-153, 15-30-155, 15-30-156, 15-30-157, 15-30-161, 15-30-162, 15-30-163, 15-30-164, 15-30-165, 15-30-166, 15-30-167, 15-30-168, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, 15-30-179, 15-30-180, 15-30-186, 15-30-188, 15-30-189, 15-30-190, 15-30-191, 15-30-192, 15-30-195, 15-30-201, 15-30-202,

1 15-30-203, 15-30-204, 15-30-205, 15-30-206, 15-30-207, 15-30-208, 15-30-209, 15-30-210,  
 2 15-30-215, 15-30-241, 15-30-246, 15-30-247, 15-30-248, 15-30-249, 15-30-250, 15-30-251,  
 3 15-30-255, 15-30-256, 15-30-257, 15-30-301, 15-30-302, 15-30-303, 15-30-304, 15-30-305,  
 4 15-30-306, 15-30-307, 15-30-310, 15-30-311, 15-30-312, 15-30-313, 15-30-314, 15-30-316,  
 5 15-30-321, 15-30-323, 15-30-324, 15-30-331, 15-31-136, 15-31-162, 15-32-109, 15-32-115,  
 6 15-32-201, 15-32-202, 15-32-203, 15-61-202, 15-63-202, AND 19-17-407, MCA; AND PROVIDING  
 7 AN EFFECTIVE DATE, APPLICABILITY DATES, AND A TERMINATION DATE."

8

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

10

11 NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 through 63], unless the  
 12 context requires otherwise, the following definitions apply:

13 (1) "Engaging in business" means carrying on or causing to be carried on any activity with the  
 14 purpose of direct or indirect benefit.

15 (2) "Food products for human consumption":

16 (a) means food for domestic home consumption as defined in 7 U.S.C. 2012(g), as amended, for  
 17 purposes of the federal food stamp program as defined in 7 U.S.C. 2012(h), as amended; and

18 (b) does not mean or include:

19 (i) medicine or preparations, in liquid, powdered, granular, bottled, capsule, lozenge, or pill form,  
 20 sold as a dietary supplement or adjunct not prescribed by a licensed physician;

21 (ii) carbonated water or soft drinks marketed in containers;

22 (iii) chewing gum;

23 (iv) candies or confectioneries; or

24 (v) seeds and plants to grow food.

25 (3) "Lease", "leasing", or "rental" means an arrangement in which, for consideration, property is  
 26 used for or by a person other than the owner of the property.

27 (4) "Maintaining an office or other place of business" means:

28 (a) any person having or maintaining within this state, directly or by a subsidiary, an office,  
 29 distribution house, sales house, warehouse, or place of business; or

30 (b) any agent operating within this state under the authority of the person or its subsidiary,

1 whether the place of business or agent is located in the state permanently or temporarily or whether or  
2 not the person or subsidiary is authorized to do business within this state.

3 (5) (a) "Manufacturing" means combining or processing components or materials, including the  
4 processing of ores in a mill, smelter, refinery, or reduction facility, to increase their value for sale in the  
5 ordinary course of business.

6 (b) The term does not include construction.

7 (6) "Medical services" means a service:

8 (a) performed by a person licensed to practice a health care profession or health care occupation  
9 licensed under Title 37 or licensed as a mental health professional or certified under Title 53, chapter 24,  
10 as a chemical dependency counselor as a regular part of the person's business activities; and

11 (b) applied externally or internally to the human body or mind for the diagnosis, cure, mitigation,  
12 treatment, or prevention of disease.

13 (7) "Medicine" or "drug" means any substance or preparation that is:

14 (a) intended for use by external or internal application to the human body or mind in the diagnosis,  
15 cure, mitigation, treatment, or prevention of disease; and

16 (b) required by law or regulation to be prescribed by a person licensed to prescribe the medicine  
17 or drug.

18 (8) "Motor vehicle" has the meaning provided in 61-1-102, excluding trailers, semitrailers, mobile  
19 homes, and housetrailers as those terms are defined in Title 61, chapter 1.

20 (9) "Permit" or "seller's permit" means a seller's permit as described in [section 39].

21 (10) "Person" means an individual, estate, trust, receiver, cooperative association, club,  
22 corporation, company, firm, partnership, joint venture, syndicate, or other entity, including any gas, water,  
23 or electric utility owned or operated by a county, municipality, or other political subdivision of the state.

24 (11) "Sale", "selling", or "buying" means the transfer of property for consideration or the  
25 performance of a service for consideration.

26 (12) (a) "Sales price", in addition to the other meanings provided in this subsection (12), means  
27 the total amount of money or the value of other consideration, except trade-in property of like kind,  
28 received from selling property in Montana, from leasing property used in Montana, or from performing  
29 services in Montana. The term includes all consideration from the sale of property handled on consignment  
30 but excludes cash discounts allowed and taken and any type of time-price differential.

1 (b) In an exchange in which the money or other consideration received does not represent the  
2 value of the property or service exchanged, sales price means the reasonable value of the property or  
3 service exchanged.

4 (c) (i) Except as provided in [section 46], when the sale of property or services is made under any  
5 type of charge or conditional or time-sales contract or the leasing of property is made under a leasing  
6 contract, the seller or lessor shall treat the sales price, excluding any type of time-price differential, under  
7 the contract as the sales price at the time of the sale.

8 (ii) If the seller or lessor transfers an interest in a contract referred to in subsection (12)(c)(i) to  
9 a third person, the third person or lessee shall pay the sales tax or use tax upon the full sale or leasing  
10 contract amount, excluding any type of time-price differential.

11 (d) Sales price includes the total commissions or fees derived from the business of buying, selling,  
12 or promoting the purchase, sale, or lease, as an agent or broker on a commission or fee basis, of any  
13 property, service, stock, bond, or security.

14 (e) Sales price includes all amounts paid by members of a cooperative association or similar  
15 organization for sales or leases of personal property or performance of services by the organization.

16 (13) "Sales tax" and "use tax" mean the applicable tax imposed by [section 2].

17 (14) (a) "Service" means an activity that is engaged in for another person for consideration and  
18 that is distinguished from the sale or lease of property. The term includes:

19 (i) activities performed by a person for its members or shareholders; and

20 (ii) construction activities and all tangible personal property that will become an ingredient or  
21 component part of a construction project.

22 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of  
23 the contracting parties is irrelevant.

24 (15) "Therapeutic and prosthetic devices" include but are not limited to prescription eyeglasses,  
25 contact lenses, dentures, or artificial limbs, prescribed or ordered by a person licensed to perform medical  
26 services.

27 (16) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for  
28 use solely outside this state, in the ordinary course of business.

29

30 NEW SECTION. **Section 2. Imposition and rate of sales tax and use tax -- exceptions.** (1) Except

1 as provided in subsection (5), a sales tax of 4% is imposed on all sales of property or services. The tax  
2 is imposed on the purchaser and must be collected by the seller and paid to the department by the seller.  
3 The seller holds all taxes collected in trust for the state. The tax must be applied to the sales price.

4 (2) For the privilege of using property in this state, there is imposed on the person using property  
5 a use tax equal to 4% of the value of the property that was:

6 (a) manufactured by the person using the property in this state;

7 (b) acquired outside this state as the result of a transaction that would have been subject to the  
8 sales tax had it occurred within this state;

9 (c) acquired within the exterior boundaries of an Indian reservation within this state as a result of  
10 a transaction that would have been subject to the sales tax had it occurred outside of the exterior  
11 boundaries of an Indian reservation within this state; or

12 (d) acquired as the result of a transaction that was not initially subject to the sales tax imposed  
13 by subsection (1) or the use tax imposed by subsection (2)(b) or (2)(c) but which transaction, because of  
14 the buyer's subsequent use of the property, is subject to the sales tax or use tax.

15 (3) For the privilege of using services in this state, there is imposed on the person using services  
16 a use tax equal to 4% of the value of the services at the time at which they were rendered. Services  
17 taxable under this section must have been rendered as the result of a transaction that was not initially  
18 subject to the sales tax or use tax but that because of the buyer's subsequent use of the service is subject  
19 to the sales tax or use tax.

20 (4) For purposes of this section, the value of property must be determined as of the time of  
21 acquisition, introduction into this state, or conversion to use, whichever is latest.

22 (5) The sales tax or use tax on a motor vehicle is imposed by [section 62]. The sale or use of a  
23 vehicle subject to the tax imposed under [section 62] is exempt from the sales tax and use tax imposed  
24 under this section.

25 (6) The sale of property or services exempt or nontaxable under [sections 1 through 63] is exempt  
26 from the tax imposed in subsections (1) through (3).

27

28 NEW SECTION. **Section 3. Presumption of taxability -- value -- rules.** (1) In order to prevent  
29 evasion of the sales tax or use tax and to aid in its administration, it is presumed that:

30 (a) all sales by a person engaging in business are subject to the sales tax or use tax; and

1 (b) all property bought or sold by any person for delivery into this state is bought or sold for a  
2 taxable use in this state.

3 (2) In determining the amount of tax due on the use of property or services, it is presumed, in the  
4 absence of preponderant evidence of another value, that value means the total amount of property or the  
5 reasonable value of other consideration paid for the use of the property or service, exclusive of any type  
6 of time-price differential. However, in an exchange in which the amount of money paid does not represent  
7 the value of the property or service purchased, the use tax must be imposed on the reasonable value of  
8 the property or service purchased.

9 (3) The department shall adopt rules providing for the payment of the sales tax and use tax based  
10 on a bracket amount method rather than a rounding method or other method.

11

12 **NEW SECTION. Section 4. Separate statement of tax -- no advertising to absorb or refund tax.**

13 (1) If any person collects a tax in excess of the tax imposed by [section 2], both the tax and the excess  
14 tax must be remitted to the department.

15 (2) The sales tax must be stated separately for all sales, except for sales from coin-operated or  
16 currency-operated machines.

17 (3) A person may not advertise, hold out, or state to the public or to any customer that the tax  
18 imposed by [sections 1 through 63] will be absorbed or refunded.

19

20 **NEW SECTION. Section 5. Liability of user for payment of use tax.** (1) A person in this state who  
21 uses property is liable to the state for payment of the use tax if the tax is payable on the value of the  
22 property but has not been paid.

23 (2) The liability imposed by this section is discharged if the buyer has paid the use tax to the seller  
24 for payment to the department.

25

26 **NEW SECTION. Section 6. Collection of sales tax and use tax -- listing of business locations and**  
27 **agents -- severability.** (1) A person engaged in the business of selling property or services subject to  
28 taxation under [sections 1 through 63] shall collect the sales tax from the purchaser and pay the tax  
29 collected to the department.

30 (2) (a) A person who solicits or exploits the consumer market in this state by regularly and

1 systematically performing an activity within this state and whose sales are not subject to the sales tax  
2 shall, to the extent allowed by federal law, collect the use tax from the purchaser and pay the tax collected  
3 to the department.

4 (b) "Activity", for the purposes of this section, includes but is not limited to engaging in any of  
5 the following in this state:

6 (i) maintaining an office or other place of business that solicits orders through employees or  
7 independent contractors;

8 (ii) canvassing;

9 (iii) demonstrating;

10 (iv) collecting money;

11 (v) warehousing or storing merchandise;

12 (vi) delivering or distributing products as a consequence of an advertising or other sales program  
13 directed at potential customers;

14 (vii) soliciting orders for property or services by means of telecommunication or a television  
15 shopping system or by providing telecommunication services that use toll or toll-free numbers and that are  
16 intended to be broadcast by cable television or other means to consumers in this state;

17 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this  
18 state, for property or services by means of advertising disseminated primarily to consumers located in this  
19 state and only secondarily to bordering jurisdictions;

20 (ix) soliciting orders for property or services by mail through the distribution of catalogs,  
21 periodicals, advertising flyers, or other advertising;

22 (x) soliciting orders, pursuant to a contract with a cable television operator located in this state,  
23 for tangible property or services by means of advertising transmitted or distributed over a cable television  
24 system in this state; or

25 (xi) any act that benefits from banking, financing, debt collection, telecommunication, or marketing  
26 activities occurring in this state or that benefits from the location in this state of authorized installation,  
27 servicing, or repair facilities.

28 (3) A person engaging in business in this state shall, before making any sales, obtain a seller's  
29 permit as provided in [section 39] and at the time of making a sale, whether within or outside of the state,  
30 collect the tax imposed by [section 2] from the purchaser and give to the purchaser a receipt, in the

1 manner and form prescribed by rule, for the tax paid.

2 (4) The department may authorize the collection of the tax imposed by [section 2] by any retailer  
3 who does not maintain a place of business within this state but who, to the satisfaction of the department,  
4 is in compliance with the law. When authorized, the person shall collect the tax upon all property and  
5 services that, to the person's knowledge, are for use within this state and subject to taxation under  
6 [sections 1 through 63].

7 (5) All sales tax and use tax required to be collected and all sales tax and use tax collected by any  
8 person under [sections 1 through 63] constitute a debt owed to this state by the person required to collect  
9 the tax.

10 (6) A person selling property or services to residents of this state, when the property is delivered  
11 to a location within this state or when the use of the service occurs within this state, shall, upon request  
12 by the department, provide a list of all sales to the department. The list must include the name and address  
13 of each purchaser and the amount of each sale. The department may pay to any person furnishing a list  
14 of sales or purchasers the reasonable costs of reproducing the list.

15 (7) A person engaging in business in this state shall provide to the department:

16 (a) the names and addresses of all the person's agents operating in this state; and

17 (b) the location of each of the person's distribution houses or offices, sales houses or offices, and  
18 other places of business in this state.

19 (8) If any application of this section is held invalid, the application to other situations or persons  
20 is not affected.

21

22 **NEW SECTION. Section 7. Nontaxable transaction certificate -- requirements.** (1) A nontaxable  
23 transaction certificate executed by a buyer or lessee must be in the possession of the seller or lessor at  
24 the time that a nontaxable transaction occurs.

25 (2) A nontaxable transaction certificate must contain the information and be in the form prescribed  
26 by the department.

27 (3) Only a buyer or lessee who has registered with the department and whose seller's permit is  
28 valid may execute a nontaxable transaction certificate.

29 (4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and  
30 believes in good faith that the buyer or lessee will employ the property or service transferred in a

1 nontaxable manner, the properly executed nontaxable transaction certificate is considered conclusive  
2 evidence that the sale is nontaxable.

3

4 NEW SECTION. **Section 8. Nontaxable transaction certificate -- form.** (1) The department shall  
5 provide for a uniform nontaxable transaction certificate. A purchaser shall use the certificate when  
6 purchasing goods or services for resale or for other nontaxable transactions.

7 (2) At a minimum, the certificate must provide:

8 (a) the number of the seller's permit issued to the purchaser as provided in [section 39];

9 (b) the general character of property or service sold by the purchaser in the regular course of  
10 business;

11 (c) the property or service purchased for resale;

12 (d) the name and address of the purchaser; and

13 (e) a signature line for the purchaser.

14 (3) The department shall adopt rules to provide procedures for application for and provision of a  
15 nontaxable transaction certificate to a person engaging in business in this state prior to [the applicability  
16 date of this section]. The rules adopted by the department must ensure that each person engaging in  
17 business in this state prior to [the applicability date of this section] who has applied in a timely fashion is  
18 issued a nontaxable transaction certificate prior to [the applicability date of this section].

19

20 NEW SECTION. **Section 9. Exemption -- government agencies -- exception.** (1) Except as provided  
21 in subsection (2), all sales by, sales to, or uses by the United States, this state, an agency or  
22 instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe, or  
23 a foreign government are exempt from the sales tax and use tax.

24 (2) The sale of natural gas, water, electricity, telephone or data communications services, internet  
25 access services, refuse collection, or other utility services is not exempt from the sales tax and use tax,  
26 unless sold by or to an entity included in subsection (1).

27

28 NEW SECTION. **Section 10. Exemption -- food products.** (1) Except as provided in subsection (2),  
29 the sale or use of food products for human consumption is exempt from the sales tax and use tax.

30 (2) The sale of food products sold in the following manner is subject to the sales tax:

- 1 (a) food products served as meals on or off the premises of the retailer;
- 2 (b) milk or cream sold as beverages commonly referred to as milkshakes, malted milks, or any  
3 similar beverage;
- 4 (c) food products furnished, prepared, or served for consumption at tables, chairs, or counters or  
5 from trays, glasses, dishes, or other tableware, whether provided by the retailer or by a person with whom  
6 the retailer contracts to furnish, prepare, or serve food products to others;
- 7 (d) food products sold for immediate consumption, even though the products are sold on a  
8 "takeout", "to go", or "U-bake" order and are actually packaged or wrapped and taken from the premises  
9 of the retailer;
- 10 (e) food products sold for consumption within a place that charges an admission fee; or
- 11 (f) food or drink vended by or through machines on behalf of a vendor.

12 (3) The sale of food or a food service offered or delivered as part of a residential living  
13 arrangement and consumed by a person who is party to the arrangement is exempt from the sales tax and  
14 use tax.

15

16 **NEW SECTION. Section 11. Exemption -- special supplemental food program for women, infants,**  
17 **and children.** The sale of food purchased under the special supplemental food program for women, infants,  
18 and children as specified in 42 U.S.C. 1786, as amended, is exempt from the sales tax and use tax.

19

20 **NEW SECTION. Section 12. Exemption -- prescribed medicine, drugs, and certain devices --**  
21 **medical services.** (1) Medicine, drugs, insulin, and therapeutic and prosthetic devices are exempt from the  
22 sales tax and use tax.

23 (2) The following are exempt from the sales tax and use tax:

- 24 (a) medical services;
- 25 (b) any service reasonably related to the delivery of a medical service:
- 26 (i) by or at a health care facility as defined in 50-5-101; or
- 27 (ii) by or at the office of a health care professional or a person engaged in a health care occupation.

28

29 **NEW SECTION. Section 13. Exemption -- wages.** Except as provided in [sections 1 through 63],  
30 wages, salaries, commissions, and any other form of remuneration for personal services are exempt from

1 the sales tax if paid by an employer to an employee.

2

3 **NEW SECTION. Section 14. Exemption -- agricultural products -- livestock feeding.** (1) (a) The  
4 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer,  
5 trapper, or nonprofit marketing association is exempt from the sales tax.

6 (b) A person engaged in the business of buying and selling wool or mohair or of buying and selling  
7 livestock on the person's own account and without the services of a broker, auctioneer, or other agent  
8 is considered a producer for the purposes of subsection (1)(a).

9 (2) Sales from feeding, pasturing, penning, or handling or training livestock prior to sale are  
10 exempt from the sales tax.

11

12 **NEW SECTION. Section 15. Exemption -- gambling and amusement services.** All gambling or  
13 amusement services that are conducted or licensed pursuant to Title 23, chapter 4, 5, or 7, are exempt  
14 from the sales tax and use tax.

15

16 **NEW SECTION. Section 16. Exemption -- insurance premiums.** The premiums of an insurance  
17 company, a health service corporation, a health maintenance organization, or a fraternal benefit society  
18 or of an agent of the company, corporation, organization, or society are exempt from the sales tax.

19

20 **NEW SECTION. Section 17. Exemption -- dividends and interest.** The following are exempt from  
21 the sales tax:

22 (1) interest on money loaned or deposited;

23 (2) dividends or interest from stocks, bonds, or securities;

24 (3) proceeds from the sale of stocks, bonds, or securities; and

25 (4) commissions or fees derived from the business of buying, selling, or promoting any stock,  
26 bond, or security.

27

28 **NEW SECTION. Section 18. Exemption -- fuel.** (1) The sale and use of gasoline, ethanol blended  
29 for fuel, compressed natural gas, liquefied petroleum gas, and special fuel, including natural gas or  
30 propane, upon which tax has been paid or will be paid under Title 15, chapter 70, is exempt from the sales

1 tax and use tax.

2 (2) The sale and use of special fuel that is exempt from taxation under Title 15, chapter 70, part  
3 3, is exempt from the sales tax and use tax.

4

5 NEW SECTION. **Section 19. Exemption -- isolated or occasional sale or lease of property or**  
6 **services.** The isolated or occasional sale or lease of property, other than a vehicle, or the performance of  
7 a service by a person who is not regularly engaged in or who does not claim to be engaged in the business  
8 of selling or leasing the same or a similar property or service is exempt from the sales tax and use tax.  
9 Occasional sales include sales that are occasional but not continuous and that are made for the purpose  
10 of fundraising by nonprofit organizations, including but not limited to youth clubs, service clubs, and  
11 fraternal organizations.

12

13 NEW SECTION. **Section 20. Exemption -- oil, gas, and mineral interests.** The sale or lease of  
14 interests in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

15

16 NEW SECTION. **Section 21. Exemption -- minerals -- exceptions.** (1) Except as provided in  
17 subsections (4) and (5), the sale or use of a mineral, as defined in 15-38-103, is exempt from the sales  
18 tax and use tax.

19 (2) Minerals used by the producer of the minerals for purposes of exploring for, producing, or  
20 transporting minerals are exempt from the sales tax and use tax except that the exemption does not  
21 include refined petroleum products.

22 (3) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots,  
23 bars, or other similar forms, are exempt from the sales tax and use tax.

24 (4) Minerals used as or integrated into jewelry, art, or sculpture or used as a decorative  
25 embellishment or adornment, either in their own right, in combination with other property, or after being  
26 refined, reduced, polished, cut, faceted, or otherwise processed, are not included in the exemption  
27 provided in this section.

28 (5) Minerals that are used for producing energy or that are used for conversion into energy are  
29 subject to the sales tax or use tax unless the energy is produced or converted for resale as a form of  
30 energy.

1

2           **NEW SECTION. Section 22. Exemption -- personal effects.** The use by an individual of personal  
3 or household effects brought into the state for the establishment by the individual of an initial residence  
4 in this state and the use of property brought into the state by a nonresident for the nonresident's own  
5 nonbusiness use while temporarily within this state is exempt from the use tax.

6

7           **NEW SECTION. Section 23. Exemption -- printed material -- advertising services.** (1) The sale or  
8 use of newspapers, magazines, and books is exempt from the sales tax and use tax.

9           (2) The sale or use of advertising services, including the actual creation or development of the  
10 advertising, is exempt from the sales tax and use tax.

11           (3) For purposes of this section, "advertising services" includes but is not limited to all advertising  
12 by:

13           (a) newspaper, magazine, or other publication;

14           (b) radio or television;

15           (c) billboard, banner, sign, placard, or the like;

16           (d) handbill; or

17           (e) any other means, media, or method.

18

19           **NEW SECTION. Section 24. Exemption -- day-care services.** The sale or use of day-care services  
20 is exempt from the sales tax and use tax.

21

22           **NEW SECTION. Section 25. Exemption -- feed, fertilizers, and agricultural services.** (1) The sale  
23 or use of the following is exempt from the sales tax and use tax:

24           (a) feed for livestock, fish raised for human consumption, poultry, or animals raised for their hides  
25 or pelts;

26           (b) semen, ova, or embryos used in animal husbandry;

27           (c) seeds;

28           (d) Christmas trees;

29           (e) roots;

30           (f) bulbs;

- 1 (g) soil conditioners;
- 2 (h) fertilizers;
- 3 (i) insecticides;
- 4 (j) insects used to control weeds or the population of other insects;
- 5 (k) fungicides;
- 6 (l) weedicides;
- 7 (m) herbicides; or
- 8 (n) water for commercial irrigation.

9 (2) The sale or use of an agricultural service is exempt from the sales tax and use tax.

10

11 **NEW SECTION. Section 26. Exemption -- certain chemicals, reagents, and substances.** (1) The  
 12 sale or use by any person of any chemical, reagent, or other substance that is normally used or consumed  
 13 in the processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility or in acidizing oil  
 14 wells, is exempt from the sales tax and use tax.

15 (2) The sale or use of explosives, blasting material, or dynamite is not exempt under this section.

16

17 **NEW SECTION. Section 27. Exemption -- sale of certain services of mining or manufacturing.** The  
 18 sale or use of the service of mining, manufacturing, combining, or processing components or materials,  
 19 including minerals, is exempt from the sales tax and use tax.

20

21 **NEW SECTION. Section 28. Nontaxability -- sale of property for resale.** The sale of property is  
 22 nontaxable if:

23 (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller; and

24 (2) the buyer resells the property either by itself or in combination with other property in the  
 25 ordinary course of business and the property will be subject to the sales tax.

26

27 **NEW SECTION. Section 29. Nontaxability -- sale of service for resale.** The sale of a service for  
 28 resale is nontaxable if:

29 (1) the sale is made to a person who delivers a nontaxable transaction certificate;

30 (2) the buyer resells the service and separately states the value of the service purchased in the

1 charge for the service in the subsequent sale; and

2 (3) the subsequent sale is in the ordinary course of business and subject to the sales tax.

3

4 NEW SECTION. **Section 30. Nontaxability -- sale to miner or manufacturer.** (1) The sale of  
5 property to a buyer engaged in the business of mining or manufacturing is nontaxable if:

6 (a) the buyer delivers a nontaxable transaction certificate to the seller; and

7 (b) the buyer incorporates the property as an ingredient or component part of the product in the  
8 business of mining or manufacturing; or

9 (c) the buyer uses the property to extract a mineral and the property is required to be abandoned  
10 in place, in accordance with state regulations, when production of the mineral from a mine or wellhead  
11 permanently ceases.

12 (2) For the purposes of this section, electrical energy or electricity used or consumed by  
13 electrolytic reduction used in the reduction or refinement of ores is considered a component part of the  
14 product.

15

16 NEW SECTION. **Section 31. Nontaxability -- sale of tangible personal property for leasing.** The  
17 sale of property, other than furniture or appliances, and the rental or lease of mobile homes and property,  
18 other than coin-operated or currency-operated machines, is nontaxable if:

19 (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;

20 (2) the buyer is engaged in a business deriving more than 50% of its receipts from leasing or  
21 selling property of the type leased; and

22 (3) the buyer does not use the property in any manner other than holding it for lease or sale or  
23 leasing or selling it, either by itself or in combination with other property, in the ordinary course of  
24 business.

25

26 NEW SECTION. **Section 32. Lease for subsequent lease.** The lease of property, other than  
27 furniture or appliances, and the rental or lease of mobile homes and property, other than coin-operated or  
28 currency-operated machines, is nontaxable if:

29 (1) the lease is made to a lessee who delivers a nontaxable transaction certificate; and

30 (2) the lessee does not use the property in any manner other than for subsequent lease in the

1 ordinary course of business.

2

3 **NEW SECTION. Section 33. Nontaxability -- sale or lease of real property or improvements and**

4 **lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

5 (b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.

6 (2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased  
7 or rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

8

9 **NEW SECTION. Section 34. Nontaxability -- transactions in interstate commerce -- certain**  
10 **property used in interstate commerce -- exception.** (1) A transaction in interstate commerce is nontaxable

11 to the extent that the imposition of the sales tax or use tax would be unlawful under the United States  
12 constitution.

13 (2) The following are also nontaxable:

14 (a) transmitting messages or conversations by radio when the transmissions originate from a point  
15 outside this state and are received at a point within this state; and

16 (b) the sale of radio or television broadcast time if the advertising message is supplied by or on  
17 behalf of a national or regional seller or an advertiser that does not have its principal place of business in  
18 this state or that is not incorporated under the laws of this state.

19 (3) The sale of a vehicle with a gross vehicle weight in excess of 46,000 pounds used exclusively  
20 in interstate commerce is nontaxable.

21

22 **NEW SECTION. Section 35. Nontaxability -- certain intrastate transportation and services in**

23 **interstate commerce.** (1) The transport of persons or property from one point within this state to another  
24 point within this state is not taxable if the persons or property, including any reasonably necessary  
25 services, are being transported in interstate or foreign commerce under a single contract.

26 (2) Handling, storage, drayage, or packing of property or any other accessorial services on  
27 property are not taxable if:

28 (a) the property has been or will be moved in interstate or foreign commerce;

29 (b) the services are performed by a local agent for a carrier or by a carrier; and

30 (c) the services are performed under a single contract in relation to interstate transportation

1 services.

2

3 **NEW SECTION. Section 36. Nontaxability -- sale of certain services to out-of-state buyer.** (1)

4 Except as provided in subsection (3), sale of a service is not taxable if the sale is made to a buyer who  
5 delivers to the seller either a nontaxable transaction certificate or other evidence acceptable to the  
6 department that the transaction and the person who delivers the nontaxable transaction certificate or other  
7 evidence acceptable to the department meet the conditions set out in subsection (2).

8 (2) Sales of a service are not taxable if the buyer of the service, any of the buyer's employees,  
9 or any person in privity with the buyer:

10 (a) does not make initial use of the product or the service in this state;

11 (b) does not take delivery of the product or the service in this state; or

12 (c) concurrent with the performance of the service, does not maintain an office or other place of  
13 business in this state or spend more than brief and occasional periods of time in this state and:

14 (i) does not have any communication in this state related in any way to the subject matter,  
15 performance, or administration of the service with the person performing the service; or

16 (ii) does not personally perform work in this state related to the subject matter of the service.

17 (3) Architectural, engineering, surveying, or graphic design services are nontaxable if the product  
18 resulting from the service or the service is used or applied exclusively outside of Montana. For the  
19 purposes of this subsection, the provisions of subsection (2) do not apply.

20 (4) Services that initially were nontaxable under this section but that no longer meet the criteria  
21 in subsection (2) are nontaxable only for the period prior to the disqualification and are, after  
22 disqualification, taxable.

23

24 **NEW SECTION. Section 37. Nontaxability -- use of property for leasing.** The value of leased  
25 property is not considered in computing the use tax due if the person holding the property for lease:

26 (1) is engaged in a business that derives a substantial portion of its receipts from leasing or selling  
27 property of the type leased;

28 (2) does not use the property in any manner other than holding it for lease or sale or leasing or  
29 selling it either by itself or in combination with other tangible personal property in the ordinary course of  
30 business; and

1 (3) does not use the property in a manner incidental to the performance of a service.

2

3 NEW SECTION. **Section 38. Credit -- out-of-state taxes.** If a sales, use, or similar tax has been  
4 levied by another state or a political subdivision of another state on property that was bought outside this  
5 state but that will be used or consumed in this state and the tax was paid by the current user, the amount  
6 of tax paid may be credited against any use tax due this state on the same property. The credit may not  
7 exceed the sales tax or use tax due this state.

8

9 NEW SECTION. **Section 39. Seller's permit.** (1) A person wishing to engage in business in this  
10 state shall obtain a seller's permit before engaging in business in this state.

11 (2) Upon an applicant's compliance with [sections 1 through 63], the department shall issue to  
12 the applicant a separate, numbered seller's permit for each location in which the applicant maintains an  
13 office or other place of business within Montana. A permit is valid until revoked or suspended but is not  
14 assignable. A permit is valid only for the person in whose name it is issued and for the transaction of  
15 business at the place designated. The permit must be conspicuously displayed at all times at the place for  
16 which it is issued.

17 (3) The department shall adopt rules to provide procedures for application for and provision of a  
18 seller's permit to a person engaging in business in this state prior to [the applicability date of this section].  
19 The rules adopted by the department must ensure that each person engaging in business in this state prior  
20 to [the applicability date of this section] is issued a seller's permit prior to [the applicability date of this  
21 section].

22

23 NEW SECTION. **Section 40. Permit application -- requirements -- place of business -- form.** (1) (a)  
24 A person desiring to engage in the business of making retail sales or providing services in Montana shall  
25 file with the department an application for a permit. If the person has more than one location in which the  
26 person maintains an office or other place of business, an application may include multiple locations.

27 (b) A vending machine operator who has more than one vending machine location is considered  
28 to have only one place of business for purposes of this section.

29 (c) An applicant who does not maintain an office or other place of business and who moves from  
30 place to place is considered to have only one place of business and shall attach the permit to the

1 applicant's cart, stand, truck, or other merchandising device.

2 (2) Each person or class of persons required to file a return under [sections 1 through 63] is  
3 required to file an application for a permit.

4 (3) Each application for a permit must be on a form prescribed by the department and must set  
5 forth the name under which the applicant intends to transact business, the location of the applicant's place  
6 or places of business, and other information that the department may require. The application must be filed  
7 by the owner if the owner is a natural person, by a member or partner if the owner is an association or  
8 partnership, or by a person authorized to sign the application if the owner is a corporation.

9

10 **NEW SECTION. Section 41. Revocation or suspension of permit -- hearing -- notice -- appeal.** (1)  
11 Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend  
12 any permit held by a person who fails to comply with the provisions of [sections 1 through 63].

13 (2) The department shall provide written notice and an opportunity for a hearing on a proposed  
14 revocation or suspension. The hearing must be conducted informally and is not subject to the Montana  
15 Administrative Procedure Act.

16 (3) If a permit is revoked, the department may not issue a new permit except upon application  
17 accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of  
18 [sections 1 through 63]. The department may require security in addition to that authorized by [section  
19 50] in an amount reasonably necessary to ensure compliance with [sections 1 through 63] as a condition  
20 for the issuance of a new permit to the applicant.

21 (4) A person aggrieved by the department's final decision to revoke a permit as provided in  
22 subsection (1) may appeal the decision to the state tax appeal board within 30 days following the date  
23 on which the department issued its final decision.

24 (5) A decision of the state tax appeal board may be appealed to the district court.

25

26 **NEW SECTION. Section 42. Improper use of subject of purchase obtained with nontaxable**  
27 **transaction certificate -- penalty.** (1) If a purchaser who uses a nontaxable transaction certificate uses the  
28 subject of the purchase for a purpose other than one allowed as nontaxable under [sections 1 through 63],  
29 the use is considered a taxable sale as of the time of first use by the purchaser and the sales price is the  
30 price that the purchaser paid. If the sole nonexempt use is rental while holding for sale, the purchaser shall

1 include in the sales price the amount of the rental charged. Upon subsequent sale of the property, the  
2 seller shall include the entire amount of the sales price, without deduction of amounts previously received  
3 as rentals.

4 (2) A person who uses a certificate for property that will be used for purposes other than the  
5 purpose claimed is subject to a penalty, payable to the department, of \$100 for each transaction in which  
6 an improper use of a certificate has occurred.

7 (3) Upon a showing of good cause, the department may abate or waive the penalty or a portion  
8 of the penalty.

9

10 NEW SECTION. **Section 43. Commingling nontaxable certificate goods.** If a purchaser uses a  
11 nontaxable transaction certificate with respect to the purchase of fungible goods and commingles these  
12 goods with fungible goods that were not purchased with a nontaxable transaction certificate but that are  
13 of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from  
14 the mass of commingled goods are considered to be sales of the goods purchased with the certificate until  
15 the quantity of commingled goods sold equals the quantity of goods originally purchased under the  
16 certificate.

17

18 NEW SECTION. **Section 44. Liability for payment of tax -- security for retailer without place of**  
19 **business -- penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the  
20 taxes have been paid to the department.

21 (2) A retailer who does not maintain an office or other place of business in this state is liable for  
22 the sales tax or use tax in accordance with [sections 1 through 63] and may be required to furnish  
23 adequate security as provided in [section 50] to ensure collection and payment of the taxes. When  
24 authorized and except as otherwise provided in [sections 1 through 63], the retailer is liable for the taxes  
25 upon all property sold and services provided in this state in the same manner as a retailer who maintains  
26 an office or other place of business within this state. The seller's permit provided for in [section 39] may  
27 be canceled at any time if the department considers the security inadequate or believes that the taxes can  
28 be collected more effectively in another manner.

29 (3) An agent, canvasser, or employee of a retailer doing business in this state who does not  
30 possess a seller's permit issued by the department may not sell, solicit orders for, or deliver any property

1 or services in Montana. If an agent, canvasser, or employee violates the provisions of [sections 1 through  
2 63], the person is subject to a fine of not more than \$100 for each separate transaction or event.

3

4 NEW SECTION. **Section 45. Interstate and intrastate carriers as retailers.** A person engaged in  
5 the business of intrastate or interstate transportation of property or passengers shall register as a retailer  
6 and pay the taxes imposed by [sections 1 through 63].

7

8 NEW SECTION. **Section 46. Application for permission to report on accrual basis.** (1) A person  
9 who has a seller's permit may apply to the department for permission to report and pay the sales tax or  
10 use tax on an accrual basis.

11 (2) The application must be made on a form, prescribed by the department, that contains  
12 information that the department may require.

13 (3) A person may not report or pay the sales tax or use tax on an accrual basis unless the person  
14 has received written permission from the department.

15

16 NEW SECTION. **Section 47. Returns -- payment -- authority of department.** (1) Except as provided  
17 in subsection (2), on or before the 15th day of each month in which the tax imposed by [sections 1  
18 through 63] is payable, a return, on a form provided by the department, and payment of the tax for the  
19 preceding month must be filed with the department. Each person engaged in business in this state or using  
20 property in this state that is subject to tax under [sections 1 through 63] shall file a return. A person  
21 making retail sales at two or more places of business shall file a separate return for each separate place  
22 of business.

23 (2) A person who has a tax liability that averages less than \$100 per month may report and pay  
24 the tax imposed by [sections 1 through 63] on a quarterly basis and shall file a return with payment on  
25 or before the 15th day of the month following the end of the quarter.

26 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

27 (i) a retailer required to collect the tax; and

28 (ii) a person who:

29 (A) purchases any items the storage, use, or other consumption of which is subject to the sales  
30 tax or use tax; and

1 (B) has not paid the tax to a retailer required to pay the tax.

2 (b) Each return must be authenticated by the person filing the return or by the person's agent  
3 authorized in writing to file the return.

4 (4) (a) A person required to collect and pay to the department the taxes imposed by [sections 1  
5 through 63] shall keep records, render statements, make returns, and comply with the provisions of  
6 [sections 1 through 63] and the rules prescribed by the department. Each return or statement must include  
7 the information required by the rules of the department.

8 (b) For the purpose of determining compliance with the provisions of [sections 1 through 63], the  
9 department is authorized to examine or cause to be examined any books, papers, records, or memoranda  
10 relevant to making a determination of the amount of tax due, whether the books, papers, records, or  
11 memoranda are the property of or in the possession of the person filing the return or another person. In  
12 determining compliance, the department may use statistical sampling and other sampling techniques  
13 consistent with generally accepted auditing standards. The department may also:

14 (i) require the attendance of a person having knowledge or information relevant to a return;

15 (ii) compel the production of books, papers, records, or memoranda by the person required to  
16 attend;

17 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the  
18 tax is or may be jeopardized because of delay;

19 (iv) take testimony on matters material to the determination; and

20 (v) administer oaths or affirmations.

21 (5) Pursuant to rules established by the department, returns may be computer-generated and  
22 electronically filed.

23

24 **NEW SECTION. Section 48. Credit for taxes paid on worthless accounts -- taxes paid if account**  
25 **collected.** (1) Sales taxes paid on an accrual basis by a person filing a return under [section 47] on sales  
26 found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes  
27 may be credited on a subsequent payment of the tax.

28 (2) If an account is subsequently collected, the sales tax must be paid on the amount collected.

29

30 **NEW SECTION. Section 49. Vendor allowance.** (1) A person filing a return under [section 47] may

1 claim a monthly vendor allowance for each permitted location in the amount of 1.5% of the tax determined  
2 to be payable to the state or \$50 a month, whichever is less.

3 (2) A person filing a quarterly return may claim 1.5% of the tax determined to be payable to the  
4 state or \$150 a quarter, whichever is less.

5 (3) The allowance may be deducted on the return.

6

7 **NEW SECTION. Section 50. Security -- limitations -- sale of security deposit at auction -- bond.**

8 (1) The department may require a retailer to deposit, with the department, security in a form and amount  
9 that the department determines is appropriate. The deposit may not be more than twice the estimated  
10 average liability for the period for which the return is required to be filed or \$10,000, whichever is less.  
11 The amount of security may be increased or decreased by the department, subject to the limitations  
12 provided in this section.

13 (2) (a) If necessary, the department may sell, at public auction, property deposited as security to  
14 recover any sales tax or use tax amount required to be collected, including interest and penalties.

15 (b) Notice of the sale must be served personally upon or sent by certified mail to the person who  
16 deposited the security.

17 (c) After the sale, any surplus above the amount due that is not required as security under this  
18 section must be returned to the person who deposited the security.

19 (3) In lieu of security, the department may require a retailer to file a bond, issued by a surety  
20 company authorized to transact business in this state, to guarantee solvency and responsibility.

21 (4) In addition to the other requirements of this section, the department may require the corporate  
22 officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of  
23 liability for the payment of the tax due under [sections 1 through 63].

24

25 **NEW SECTION. Section 51. Examination of return -- adjustments -- delivery of notices and**

26 **demands.** (1) If the department determines that the amount of tax due is different from the amount  
27 reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 47]  
28 constitutes the tax to be paid.

29 (2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess  
30 must be paid to the department within 30 days after notice of the amount and demand for payment is

1 mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided  
2 in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on  
3 the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist,  
4 refunded to the person making the return.

5 (3) The notice and demand provided for in this section must contain a statement of the  
6 computation of the tax and interest and must be:

7 (a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the  
8 taxpayer's last-known address; or

9 (b) served personally upon the taxpayer.

10 (4) A taxpayer filing an objection to the demand for payment is subject to and governed by the  
11 uniform tax review procedure provided in 15-1-211.

12

13 NEW SECTION. **Section 52. Penalties and interest for violation.** (1) (a) If a person, without  
14 purposely or knowingly violating any requirement imposed by [sections 1 through 63], fails to file a return  
15 and pay the tax on or before the due date, there must be imposed a penalty of 5% of the balance of debt  
16 unpaid with respect to the return as of the date due, but the penalty for failure to file a return by its due  
17 date may not be less than \$20. The department may abate the penalty if the person establishes that the  
18 failure to file on time was due to reasonable cause and was not due to neglect by the taxpayer.

19 (b) If a person, without purposely or knowingly violating any requirement imposed by [sections  
20 1 through 63], fails to pay a debt on or before its due date, there must be added to the debt a penalty of  
21 10% of the debt, but not less than \$20, and interest must accrue on the debt at a rate of 1% for each  
22 month or fraction of a month for the entire period that the debt remains unpaid. The department may abate  
23 the penalty if the person establishes that the failure to pay was due to reasonable cause and was not due  
24 to neglect by the taxpayer. The department shall adopt rules that define reasonable cause.

25 (2) If a person purposely or knowingly violates any requirement imposed by [sections 1 through  
26 63] by failing to file a return or to pay a debt, there must be added to the debt an additional amount equal  
27 to 25% of the debt, but not less than \$50, and interest at 1% for each month or fraction of a month  
28 during which the debt remains unpaid.

29

30 NEW SECTION. **Section 53. Authority to collect delinquent taxes.** (1) (a) The department shall

1 collect taxes that are delinquent as determined under [sections 1 through 63].

2 (b) If a tax imposed by [sections 1 through 63] or any portion of the tax is not paid when due, the  
3 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

4 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal  
5 has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the  
6 state, except wages subject to the provisions of 25-13-614 and retirement benefits.

7 (3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any  
8 offset by the department.

9 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required  
10 before funds are available for offset.

11

12 NEW SECTION. **Section 54. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or  
13 delinquent taxes at the rate of 1% for each month or fraction of a month during which the taxes remain  
14 unpaid. The interest must be computed from the date the return and tax were originally due.

15 (2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and  
16 if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added  
17 to the amount of the deficiency a penalty of 10% of the tax, but not less than \$25.

18

19 NEW SECTION. **Section 55. Limitations.** (1) Except in the case of a person who purposely or  
20 knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions  
21 of [sections 1 through 63], a deficiency may not be assessed or collected with respect to a month or  
22 quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to  
23 or personally served upon the taxpayer within 5 years from the date the return was filed. For purposes of  
24 this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

25 (2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the  
26 tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency  
27 may be assessed at any time prior to the expiration of the period consented to.

28 (3) The limitations prescribed for giving notice of a proposed assessment of additional tax under  
29 subsection (1) do not apply if:

30 (a) the taxpayer has by written agreement suspended the federal statute of limitations for

1 collection of federal tax, provided that the suspension of the limitation set forth in this section lasts:

2 (i) only as long as the suspension of the federal statute of limitations; or

3 (ii) until 1 year after any changes in the person's federal tax have become final or any amended  
4 federal return is filed as a result of a suspension of the federal statute, whichever occurs later; or

5 (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return  
6 as required by 15-31-506 until 5 years after the federal changes become final or the amended federal  
7 return was filed, whichever the case may be.

8

9 **NEW SECTION. Section 56. Refunds -- interest -- limitations.** (1) A claim for a refund or credit  
10 as a result of overpayment of taxes collected under [sections 1 through 63] must be filed within 5 years  
11 of the date that the return was due, without regard to any extension of time for filing.

12 (2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged  
13 on delinquent taxes in [section 52].

14 (b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was  
15 due or the date of overpayment, whichever is later. Interest does not accrue during any period in which  
16 the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary  
17 information.

18 (c) The department is not required to pay interest if:

19 (i) the overpayment is credited or refunded within 6 months of the date that a claim was filed; or

20 (ii) the amount of overpayment and interest does not exceed \$1.

21

22 **NEW SECTION. Section 57. Administration -- rules.** The department shall:

23 (1) administer and enforce the provisions of [sections 1 through 63];

24 (2) cause to be prepared and distributed forms and information that may be necessary to  
25 administer the provisions of [sections 1 through 63]; and

26 (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of  
27 [sections 1 through 63].

28

29 **NEW SECTION. Section 58. Revocation of corporate license -- hearing authorized -- appeal.** (1)

30 If a corporation authorized to do business in this state and required to pay the taxes imposed under

1 [sections 1 through 63] fails to comply with any of the provisions of [sections 1 through 63] or any rule  
2 of the department, the department may, for reasonable cause, certify to the secretary of state a copy of  
3 an order finding that the corporation has failed to comply with specific statutory provisions or rules.

4 (2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing  
5 the corporation to do business in this state and may issue a new certificate only when the corporation has  
6 obtained from the department an order finding that the corporation has complied with its obligations under  
7 [sections 1 through 63].

8 (3) An order authorized in this section may not be made until the corporation is given an  
9 opportunity to be heard before the department. A hearing conducted under this section is informal.

10 (4) A final decision of the department may be appealed to the state tax appeal board.

11

12 **NEW SECTION. Section 59. Taxpayer quitting business -- liability of successor.** (1) (a) All taxes  
13 payable under [sections 1 through 63] are due and payable immediately whenever a taxpayer quits  
14 business, sells, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

15 (b) The taxpayer shall make a return and pay the taxes due within 10 days after the taxpayer quits  
16 business, sells, exchanges, or otherwise disposes of the business, or disposes of the stock of goods.

17 (2) Except as provided in subsection (4), a person who becomes a successor is liable for the full  
18 amount of the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient to pay  
19 any tax due until the taxpayer produces either a receipt from the department showing payment in full of  
20 any tax due or a statement from the department that tax is not due.

21 (3) If a tax is due but has not been paid as provided in subsection (1)(b), the successor is liable  
22 for the payment of the full amount of tax. The payment of the tax by the successor is considered to be  
23 a payment upon the sales price and, if the payment is greater in amount than the sales price, the amount  
24 of the difference becomes a debt due to the successor from the taxpayer owing the tax under subsection  
25 (1).

26 (4) (a) A successor is not liable for any tax due from the person from whom the successor  
27 acquired a business or stock of goods if:

28 (i) the successor gives written notice to the department of the acquisition; and

29 (ii) an assessment is not issued by the department against the former operator of the business  
30 within 6 months of receipt of the notice from the successor.

1 (b) If an assessment is issued by the department, a copy of the assessment must also be mailed  
2 to the successor, or if an assessment is not mailed to the successor, the successor is not liable for the tax  
3 due.

4

5 **NEW SECTION. Section 60. Tax as debt.** (1) The tax imposed by [sections 1 through 63] and  
6 related interest and penalties become a personal debt of the person required to file a return from the time  
7 the liability arises, regardless of when the time for payment of the liability occurs.

8 (2) The debt of the personal representative of the estate of a decedent or a fiduciary is limited to  
9 the person's official or fiduciary capacity. However, if the person has voluntarily distributed the assets held  
10 in that capacity without reserving sufficient assets to pay the taxes, interest, and penalties, the person  
11 is personally liable for any deficiency.

12 (3) (a) This section applies to those corporate officers, directors, or shareholders required by the  
13 department to personally guarantee the payment of the taxes for their corporations.

14 (b) In addition to the liability imposed by subsection (3)(a), the officer or employee of a corporation  
15 whose duty it is to collect, truthfully account for, and pay to the state the amounts imposed by [sections  
16 1 through 63] and who fails to pay the tax is liable to the state for the amounts imposed by [sections 1  
17 through 63] and the penalty and interest due on the amounts.

18

19 **NEW SECTION. Section 61. Information -- confidentiality -- agreements with another state.** (1) (a)  
20 Except as provided in subsections (2) through (4), it is unlawful for an employee of the department or any  
21 other public official or public employee to divulge or otherwise make known information that is disclosed  
22 in a report or return required to be filed under [sections 1 through 63] or information that concerns the  
23 affairs of the person making the return and that is acquired from the person's records, officers, or  
24 employees in an examination or audit.

25 (b) This section may not be construed to prohibit the department from publishing statistics if they  
26 are classified in a way that does not disclose the identity and content of any particular return or report.  
27 A person violating the provisions of this section is subject to the penalty provided in 15-31-511 for  
28 violating the confidentiality of corporation license tax information.

29 (2) (a) The department may enter into an agreement with the taxing officials of another state for  
30 the interpretation and administration of the laws of their state that provide for the collection of a sales tax

1 or use tax in order to promote fair and equitable administration of the laws and to eliminate double  
2 taxation.

3 (b) In order to implement the provisions of [sections 1 through 63], the department may furnish  
4 information on a reciprocal basis to the taxing officials of another state, provided that the information  
5 remains confidential under statutes in the state receiving the information that are similar to this section.

6 (3) In order to facilitate processing of returns and payment of taxes required by [sections 1  
7 through 63], the department may contract with vendors and may disclose data to the vendors. The data  
8 disclosed must be administered by the vendor in a manner consistent with this section.

9 (4) Nothing in this section may be construed to limit the investigative authority of the legislative  
10 branch as provided in 5-11-106, 5-12-303, or 5-13-309.

11

12 **NEW SECTION. Section 62. Sales tax and use tax on motor vehicles -- distribution by county**

13 **treasurer.** (1) (a) A sales tax of 4% is imposed on the sale, measured by the sales price of all motor  
14 vehicles, except vehicles described in [section 34(3)]. The tax is imposed on the purchaser and must be  
15 paid at the time the motor vehicle is registered or reregistered pursuant to Title 61, chapter 3.

16 (b) A use tax of 4% is imposed on the value of all used motor vehicles, except vehicles described  
17 in [section 34(3)], that are:

18 (i) manufactured by the person using the motor vehicle in this state;

19 (ii) acquired outside this state as the result of a transaction that would have been subject to the  
20 sales tax had it occurred within this state;

21 (iii) acquired within the exterior boundaries of an Indian reservation within this state as a result of  
22 a transaction that would have been subject to the sales tax had it occurred outside of the exterior  
23 boundaries of an Indian reservation within this state; or

24 (iv) acquired as the result of a transaction that was not initially subject to the sales tax imposed  
25 by subsection (1)(a) or the use tax imposed by subsection (1)(b) but which transaction, because of the  
26 buyer's subsequent use of the property, is subject to the sales tax or use tax.

27 (2) For the purpose of imposing the use tax imposed by subsection (1)(b):

28 (a) if the vehicle is a light vehicle subject to the provisions of 61-3-313 through 61-3-316, the  
29 vehicle must be valued according to the provisions for assessment contained in 61-3-503(2) and (3); or

30 (b) if the vehicle is not a light vehicle subject to the provisions of 61-3-313 through 61-3-316 or

1 a vehicle described in [section 34(3)], the department shall determine an alternative valuation for the  
2 vehicle.

3 (3) A used motor vehicle is not subject to any other assessment, fee in lieu of tax, or tax during  
4 the calendar year in which the original application for title is made.

5 (4) The county treasurer shall, on or before the 25th day of each month, remit the sales tax and  
6 use tax collected to the state treasurer for deposit in the sales tax and use tax account established in  
7 [section 63].

8

9 NEW SECTION. **Section 63. Sales tax and use tax account.** (1) There is within the state special  
10 revenue fund an account for sales tax and use tax money.

11 (2) All money collected under [sections 1 through 63] must be paid by the department into the  
12 account for sales tax and use tax.

13 (3) There must be retained in the account for sales tax and use tax the amounts necessary under  
14 [sections 1 through 63] to repay overpayments, pay any erroneous receipts illegally assessed or collected  
15 or that are excessive in amount, and pay any other refunds otherwise required.

16 (4) After retaining the amount necessary for the purposes of subsection (3), all remaining revenue  
17 in the sales tax and use tax account is allocated as follows:

18 (a) the first \$575 million or 90% of the revenue annually, whichever is less, is to be deposited in  
19 the state general fund; and

20 (b) all remaining revenue is allocated to the jurisdictions in the state to account for any reduction  
21 in property tax receipts resulting from the classification of owner-occupied residential property described  
22 in [section 64].

23

24 NEW SECTION. **Section 64. Class eleven property -- description -- taxable percentage.** (1) Class  
25 eleven property includes:

26 (a) all residential property, including trailers, manufactured homes, or mobile homes, and  
27 appurtenant land not exceeding 5 acres that is occupied by the owner for at least 7 months during the  
28 calendar year;

29 (b) the first \$100,000 or less of the taxable market value of any improvement on real property  
30 described in subsection (1), including trailers, manufactured homes, or mobile homes, and appurtenant land

1 not exceeding 5 acres owned and actually occupied for at least 7 months a year as the primary residential  
 2 dwelling of any person whose total income from all sources, including net business income and otherwise  
 3 tax-exempt income of all types but not including social security income paid directly to a nursing home,  
 4 is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as  
 5 adjusted according to subsection (2). For the purposes of this subsection (1)(b), net business income is  
 6 gross income less ordinary operating expenses before deducting depreciation or depletion allowance, or  
 7 both.

8 (2) (a) Property qualifying under the property tax assistance program in subsection (1)(b) is taxed  
 9 at the rate provided in subsection (4) of its market value multiplied by a percentage figure based on income  
 10 and determined from the following table:

11	Income	Income	Percentage
12	Single Person	Married Couple	Multiplier
13		Head of Household	
14	\$0 - \$ 6,000	\$0 - \$ 8,000	20%
15	6,001 - 9,200	8,001 - 14,000	50%
16	9,201 - 15,000	14,001 - 20,000	70%

17 (b) The income levels contained in the table in subsection (2)(a) must be adjusted for inflation  
 18 annually by the department. The adjustment to the income levels is determined by:

19 (i) multiplying the appropriate dollar amount from the table in subsection (2)(a) by the ratio of the  
 20 PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter  
 21 of 1995; and

22 (ii) rounding the product thus obtained to the nearest whole dollar amount.

23 (c) "PCE" means the implicit price deflator for personal consumption expenditures as published  
 24 quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department  
 25 of commerce.

26 (3) For the purposes of this section, an owner includes a person who owns the property fee simple  
 27 or who is purchasing the property through a mortgage, contract for deed, or other similar device.

28 (4) Class eleven property is taxed at 90% of the rate applicable to property described in  
 29 15-6-134(1)(e).

30

1           **Section 65.** Section 5-12-303, MCA, is amended to read:

2           **"5-12-303. Fiscal analysis information from state agencies.** (1) The legislative fiscal analyst may  
3 investigate and examine the costs and revenue of state government activities and may examine and obtain  
4 copies of the records, books, and files of any state agency, including confidential records.

5           (2) When confidential records and information are obtained from a state agency, the legislative  
6 fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the  
7 confidential records and information provided for under the laws administered by the state agency. The  
8 legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records  
9 and information obtained from state agencies.

10           ~~(3) The legislative fiscal analyst may not obtain copies of individual income tax records protected~~  
11 ~~under 15-30-303. The department of revenue shall make individual income tax data available by removing~~  
12 ~~names, addresses, occupations, social security numbers, and taxpayer identification numbers. The~~  
13 ~~department of revenue may not alter the data in any other way. The data is subject to the same~~  
14 ~~restrictions on disclosure as are individual income tax returns.~~

15           ~~———(4)(3)~~ Within 1 day after the legislative finance committee presents its budget analysis to the  
16 legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and  
17 disbursement recommendations by second-level expenditure detail and by funding sources detailed by  
18 accounting entity. This information must be filed in the respective offices and be made available to the  
19 legislature and the public. In preparing the budget analysis for the next biennium for submission to the  
20 legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals  
21 as defined in 17-7-102.

22           ~~(5)(4)~~ This section does not authorize publication or public disclosure of information if the law  
23 prohibits publication or disclosure."  
24

25           **Section 66.** Section 7-13-308, MCA, is amended to read:

26           **"7-13-308. Revenue bonds and obligations.** (1) A joint district may borrow money for any purpose  
27 provided in this part and issue bonds, including refunding bonds, in a form and upon terms as it may  
28 determine, payable from any revenue of the joint district, including revenue from:

29           (a) service charges authorized in 7-13-307;

30           (b) grants or contributions from the state or federal government; or

1 (c) other sources.

2 (2) The bonds may be issued by resolution of the joint district without an election and without any  
3 limitation of the amount, except that bonds may not be issued at any time if the total amount of principal  
4 and interest to become due in any year on the bonds and on any then-outstanding bonds for which  
5 revenue from the same source or sources is pledged exceeds the amount of the revenue to be received  
6 in that year as estimated in the resolution authorizing the issuance of the bonds. The board shall take all  
7 action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any  
8 are pledged, sufficient to make the revenue from the pledged source in a year at least equal to the amount  
9 of the principal and interest due in that year.

10 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.  
11 Except as otherwise provided in this part, bonds issued pursuant to this part by a joint district may be  
12 payable in principal and interest solely from revenues of the joint district and must state on their face the  
13 applicable limitations or restrictions regarding the source from which the principal and interest are payable.

14 ~~(4) Bonds issued by a joint district under this part are issued for an essential public and~~  
15 ~~governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).~~

16 ~~——(5)(4)~~ For the security of any bond, the joint district may by resolution make and enter into any  
17 covenant, agreement, or indenture. The sums required from time to time to pay principal and interest and  
18 to create and maintain a reserve for the bonds may be paid from any revenue referred to in this part prior  
19 to the payment of current costs of operation and maintenance of the solid waste management system."  
20

21 **Section 67.** Section 7-14-1133, MCA, is amended to read:

22 **"7-14-1133. Bonds and obligations.** (1) Except for providing financial support to a private  
23 development organization, including a corporation organized under Title 32, chapter 4, whose purpose is  
24 to advance the economic development of its jurisdiction and of the state and its citizens, an authority may  
25 borrow money for any of its corporate purposes and issue bonds, including refunding bonds, for any of  
26 its corporate purposes. The bonds may be in the form and upon terms as it determines, payable out of any  
27 revenue of the authority, including revenue derived from:

28 (a) any port or transportation and storage facility;

29 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

30 (c) grants or contributions from the federal government; or

1 (d) other sources.

2 (2) The bonds may be issued by resolution of the authority, without an election and without any  
3 limitation of amount, except that bonds may not be issued at any time if the total amount of principal and  
4 interest to become due in any year on the bonds and on any ~~then-outstanding~~ then-outstanding bonds for  
5 which revenue from the same source is pledged exceeds the amount of revenue to be received in that  
6 year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all  
7 action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request  
8 taxes, if any are pledged, sufficient to make the revenue from the pledged source in ~~such~~ the year at least  
9 equal to the amount of principal and interest due in that year.

10 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.  
11 Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be  
12 payable as to principal and interest solely from revenue of the authority or from particular port,  
13 transportation, storage, or other facilities of the authority. The bonds must state on their face the  
14 applicable limitations or restrictions regarding the source from which principal and interest are payable.

15 ~~(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part~~  
16 ~~are declared to be issued for an essential public and governmental purpose by a political subdivision within~~  
17 ~~the meaning of 15-30-111(2)(a).~~

18 ~~———(5) (a)(4) (a)~~ For the security of bonds, the authority, county, or municipality may by resolution  
19 make and enter into any covenant, agreement, or indenture and may exercise any additional powers  
20 authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required  
21 from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be  
22 paid from any revenue referred to in this part, prior to the payment of current costs of operation and  
23 maintenance of the facilities.

24 (b) As further security for the bonds, the authority, with the approval of the governing body of  
25 the county or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security  
26 interest in all or any portion of its port, transportation, storage, or other facilities, whether or not the  
27 facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security  
28 interest may contain any agreements and provisions customarily contained in instruments securing bonds,  
29 as the commissioners of the authority consider advisable. The provisions must be consistent with this part  
30 and are subject to and must be in accordance with the laws of this state governing mortgages, trust

1 indentures, security agreements, or instruments. The instrument may provide that in the event of a default  
 2 in the payment of principal or interest on the bonds or in the performance of any agreement contained in  
 3 the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by  
 4 mandamus or by the appointment of a receiver in equity. The receiver may collect charges, rental, or fees  
 5 and may apply the revenue from the mortgaged property or collateral in accordance with the proceedings  
 6 or the provisions of the instrument.

7 ~~(6)(5)~~ Nothing in ~~this section or 7-14-1134~~ this section may be construed to limit the use of  
 8 port authority revenue, including federal and state money as described in 7-14-1136, to make grants and  
 9 loans or to otherwise provide financial and other support to private development organizations, including  
 10 corporations organized under the provisions of the development corporation act in Title 32, chapter 4. The  
 11 credit of the state, county, or municipal governments or their agencies or authorities may not be pledged  
 12 to provide financial support to the development organizations."

13

14 **Section 68.** Section 7-14-1636, MCA, is amended to read:

15 **"7-14-1636. Bonds and obligations.** (1) An authority may borrow money for any of its corporate  
 16 purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it  
 17 determines, payable out of any revenue of the authority, including revenue derived from:

18 (a) a railroad;

19 (b) taxes levied pursuant to 7-14-1632;

20 (c) grants or contributions from the federal government; or

21 (d) other sources.

22 (2) The bonds may be issued by resolution of the authority, without an election and without any  
 23 limitation of amount, except that bonds may not be issued at any time if the total amount of principal and  
 24 interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from  
 25 the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated  
 26 in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and  
 27 possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are  
 28 pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount  
 29 of principal and interest due in that year.

30 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.

1 Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from  
 2 revenue of the authority and must state on their face the applicable limitations or restrictions regarding the  
 3 source from which the principal and interest are payable.

4 ~~(4) Bonds issued by an authority pursuant to the provisions of this part are declared to be issued~~  
 5 ~~for an essential public and governmental purpose by a political subdivision within the meaning of~~  
 6 ~~15-30-111(2)(a).~~

7 ~~——(5)(4)~~ For the security of the bonds, the authority may by resolution make and enter into any  
 8 covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by  
 9 a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay  
 10 principal and interest and to create and maintain a reserve for the bonds may be paid from the revenue  
 11 referred to in this part, prior to the payment of current costs of operation and maintenance of the  
 12 facilities."

13

14 **Section 69.** Section 7-34-2415, MCA, is amended to read:

15 **"7-34-2415. Details of bonds.** (1) The bonds may be sold at public or private sale and bear  
 16 interest at a rate or rates as provided in 17-5-102. The bonds may be for a 40-year period.

17 (2) Except as otherwise provided in 7-34-2411, ~~and~~ 7-34-2413 through 7-34-2415, 7-34-2417,  
 18 and 7-34-2418, any bonds issued pursuant to 7-34-2411, ~~and~~ 7-34-2413 through 7-34-2415, 7-34-2417,  
 19 and 7-34-2418 by a county must be payable as to principal and interest solely from revenue of the county  
 20 and must state on their face the applicable limitations or restrictions regarding the source or sources from  
 21 which the principal and interest are payable."

22

23 **Section 70.** Section 13-37-218, MCA, is amended to read:

24 **"13-37-218. Limitations on receipts from political committees.** (1) A candidate for the state  
 25 senate may receive no more than \$1,000 in total combined monetary contributions from all political  
 26 committees contributing to ~~his~~ the candidate's campaign, and a candidate for the state house of  
 27 representatives may receive no more than \$600 in total combined monetary contributions from all political  
 28 committees contributing to ~~his~~ the candidate's campaign. The ~~foregoing~~ limitations ~~shall~~ in this subsection  
 29 must be multiplied by the inflation factor as defined in ~~15-30-101(8)~~ subsection (2) for the year in which  
 30 general elections are held after 1984; ~~the~~ The resulting figure ~~shall~~ must be rounded off to the nearest

1 \$50 increment. The commissioner of political practices shall publish the revised limitations as a rule.  
 2 In-kind contributions must be included in computing these limitation totals. The limitation provided in this  
 3 section does not apply to contributions made by a political party eligible for a primary election under  
 4 13-10-601.

5 (2) For the purposes of this section:

6 (a) "consumer price index" means the consumer price index, United States city average, for all  
 7 items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department  
 8 of labor; and

9 (b) "inflation factor" means a number determined for each calendar year by dividing the consumer  
 10 price index for June of the calendar year by the consumer price index for June 2002."

11

12 **Section 71.** Section 15-1-102, MCA, is amended to read:

13 **"15-1-102. Person defined.** As used in this title, ~~(except chapters 30 and chapter 31)~~, unless the  
 14 context indicates otherwise, the term "person" means an individual, corporation (domestic or foreign),  
 15 partnership, association, joint-stock company, or syndicate."

16

17 **Section 72.** Section 15-1-205, MCA, is amended to read:

18 **"15-1-205. Biennial report -- contents.** (1) The department shall transmit to the governor 20 days  
 19 before the meeting of the legislature and make available to the legislature a report of the department  
 20 showing all the taxable property of the state, counties, and cities and its value. The department shall  
 21 follow the provisions of 5-11-210 in preparing the report.

22 (2) The report or supplements to the report may also include:

23 (a) the gross dollar amount of revenue loss attributable to:

24 (i) ~~personal income and~~ corporation license tax exemptions;

25 (ii) property tax exemptions for which application to the department is necessary;

26 (iii) deferral of income;

27 (iv) credits allowed against ~~Montana personal income tax or~~ Montana corporation license tax;  
 28 ~~reported separately;~~

29 (v) deductions from income; and

30 (vi) any other identifiable preferential treatment of income or property;

1 (b) any change in tax revenue of the state or any unit of local government attributable to a change  
2 in federal tax law; and

3 (c) any change in the revenue of any unit of local government attributable to a change in state tax  
4 law.

5 (3) The data described in subsection (2), if reported, must be related to the income and age of the  
6 taxpayer whenever the information is available.

7 (4) (a) When reporting the data described in subsection (2)(a), the department shall identify any  
8 known purpose of the preferential treatment.

9 (b) Based upon the purpose of the preferential treatment, the department shall outline the available  
10 data necessary to determine the effectiveness of the preferential treatment.

11 (5) In reporting the data described in subsection (2), the department shall report any comparable  
12 data, if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the  
13 department may choose.

14 (6) The department shall identify in a separate section of the report any changes that have been  
15 made or that are contemplated in property appraisal or assessment.

16 (7) The department may include a report, prepared by the department of transportation, showing  
17 the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding  
18 states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state  
19 price structures."

20

21 **Section 73.** Section 15-1-206, MCA, is amended to read:

22 **"15-1-206. Waiver of penalties -- interest.** (1) The department may, ~~in its discretion,~~ waive, for  
23 reasonable cause, any penalty assessed by the department.

24 (2) Whenever the department waives a penalty provided for in this title, it also may, ~~in its~~  
25 ~~discretion,~~ waive interest not to exceed \$100 due upon the tax.

26 ~~(3) Whenever the department is notified of a change in federal taxable income upon filing an~~  
27 ~~amended Montana return, as provided for in 15-30-304, the department shall waive the interest on the~~  
28 ~~additional tax liability from the date the department is notified until the department sends the statement~~  
29 ~~of increased tax liability to the taxpayer."~~

30

1           **Section 74.** Section 15-1-208, MCA, is amended to read:

2           **"15-1-208. Signature alternatives for electronically filed returns.** For purposes of Title 15, chapters  
3 1, 2, 6 through 10, 15 through 18, 23, 24, ~~30~~ 31 through 33, 35 through 38, 44, 50, 51, 53, 59 through  
4 61, and 65, and Title 16, chapter 11, the director of revenue, and for the purposes of Title 15, chapter  
5 70, the director of the department of transportation, may prescribe, by rule, methods for signing,  
6 subscribing, or verifying electronically filed tax returns. Returns electronically filed in accordance with the  
7 methods adopted by rule have the same validity and consequences as physical forms signed by a  
8 taxpayer."

9

10           **Section 75.** Section 15-1-211, MCA, is amended to read:

11           **"15-1-211. Uniform dispute review procedure -- notice -- appeal.** (1) The department shall provide  
12 a uniform review procedure for all persons or other entities, except as provided in subsection (1)(a).

13           (a) The department's dispute review procedure must be adopted by administrative rule and applies  
14 to all matters administered by the department and to all issues arising from the administration of the  
15 department, except estate taxes; and property taxes; ~~and the issue of whether an employer-employee~~  
16 ~~relationship existed between the person or other entity and individuals subjecting the person or other entity~~  
17 ~~to the requirements of chapter 30, part 2, or whether the employment relationship was that of an~~  
18 ~~independent contractor.~~ The procedure applies to assessments of centrally assessed property taxed  
19 pursuant to chapter 23.

20           (b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and  
21 similar enterprises.

22           (ii) The term "person" as used in this section includes all individuals.

23           (2) (a) Persons or other entities having a dispute with the department have the right to have the  
24 dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures  
25 such as mediation.

26           (b) The department shall establish a dispute resolution office to resolve disputes between the  
27 department and persons or other entities.

28           (c) Disputes must be resolved by a final department decision within 180 days of the referral to  
29 the dispute resolution office, unless extended by mutual consent of the parties. If a final department  
30 decision is not issued within the required time period, the remedy is an appeal to the appropriate forum

1 as provided by law.

2 (3) (a) The department shall provide written notice to a person or other entity advising them of  
3 a dispute over matters administered by the department.

4 (b) The person or other entity shall have the opportunity to resolve the dispute with the  
5 department employee who is responsible for the notice, as indicated on the notice.

6 (c) If the dispute cannot be resolved, either the department or the other party may refer the  
7 dispute to the dispute resolution office.

8 (d) The notice must advise the person or other entity of ~~their~~ the person's or entity's opportunity  
9 to resolve the dispute with the person responsible for the notice and ~~their~~ the person's or entity's right to  
10 refer the dispute to the dispute resolution office.

11 (4) Written notice must be sent to the persons or other entities involved in a dispute with the  
12 department indicating that the matter has been referred to the dispute resolution office. The written notice  
13 must include:

14 (a) a summary of the department's position regarding the dispute;

15 (b) an explanation of the right to the resolution of the dispute with a clear description of all  
16 procedures and options available;

17 (c) the right to obtain a final department decision within 180 days of the date that the dispute was  
18 referred to the dispute resolution office;

19 (d) the right to appeal should the department fail to meet the required deadline for issuing a final  
20 department decision; and

21 (e) the right to have the department consider alternative dispute resolution methods, including  
22 mediation.

23 (5) The department shall:

24 (a) develop guidelines that must be followed by employees of the department in dispute resolution  
25 matters;

26 (b) develop policies concerning the authority of an employee to resolve disputes; and

27 (c) establish procedures for reviewing and approving disputes resolved by an employee or the  
28 dispute resolution office.

29 (6) (a) (i) The director of revenue or the director's designee is authorized to enter into an  
30 agreement with a person or other entity relating to a matter administered by the department.

1 (ii) The director or the director's designee has no authority to bind a future legislature through the  
2 terms of an agreement.

3 (b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final  
4 and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

5 (i) the agreement may not be reopened as to matters agreed upon or be modified by any officer,  
6 employee, or agent of this state; and

7 (ii) in any suit, action, or proceeding under the agreement or any determination, assessment,  
8 collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement  
9 may not be annulled, modified, set aside, or disregarded."

10

11 **Section 76.** Section 15-1-302, MCA, is amended to read:

12 **"15-1-302. Witnesses -- oaths, contempt, and fees.** (1) Oaths to witnesses in any investigation  
13 by the department may be administered by the director of revenue or the director's agent.

14 (2) (a) If a witness fails to obey a summons to appear before the department or refuses to testify  
15 or answer any material question or to produce records, books, papers, or documents when required to do  
16 so, the department shall institute proceedings in the district court to compel obedience to a summons or  
17 order of the board or to punish the witness for neglect or refusal to obey the summons.

18 (b) As required by 15-30-209, the department, in addition to instituting proceedings to compel  
19 obedience to a summons or order shall, as a part of the proceedings, request the court to issue an order  
20 requiring the payment of all of the penalties assessed for the employer's failure to report described in  
21 subsection (2)(c)

22 (c) (i) A subpoena penalty of \$50 must be assessed whenever, as the result of a refusal of an  
23 employer to furnish wage information or pay taxes on time, the department issues a subpoena pursuant  
24 to this section to obtain wage information or make a jeopardy assessment pursuant to 15-1-703.

25 (ii) If an employer fails to honor the subpoena provided for in subsection (2)(c)(i), an additional  
26 \$100 penalty must be added to the liability.

27 (iii) Penalties imposed under this subsection (2)(c) may be waived by the department upon a  
28 showing of good cause by the employer. The penalty may be collected in the same manner as other tax  
29 debts, including a tax lien, are collected.

30 (3) A person who testifies falsely in any material matter under consideration by the department

1 is guilty of perjury and ~~shall~~ must be punished accordingly.

2 (4) Witnesses attending an investigation by the department must receive the same compensation  
3 as witnesses in the district court. The compensation must be charged to the proper appropriation for the  
4 department."

5

6 **Section 77.** Section 15-1-501, MCA, is amended to read:

7 **"15-1-501. Disposition of money from certain designated license and other taxes.** (1) The state  
8 treasurer shall deposit to the credit of the state general fund in accordance with the provisions of  
9 subsection (3) all money received from the collection of:

10 ~~(a) income taxes, interest, and penalties collected under chapter 30;~~

11 ~~(b)(a)~~ except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter  
12 31;

13 ~~(c)(b)~~ oil and natural gas production taxes allocated under 15-36-324(8)(a) and (10)(a);

14 ~~(d)(c)~~ electrical energy producer's license taxes under chapter 51;

15 ~~(e)(d)~~ [an amount equal to 25% of] the retail telecommunications excise tax collected under Title  
16 15, chapter 53, part 1;

17 ~~(f)(e)~~ liquor license taxes under Title 16;

18 ~~(g)(f)~~ fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as  
19 provided in 61-5-121;

20 ~~(h)(g)~~ estate taxes under Title 72, chapter 16; and

21 ~~(i)(h)~~ fees based on the value of currency on deposit and tangible personal property held for  
22 safekeeping by a foreign capital depository as provided in 15-31-803.

23 (2) The department shall also deposit to the credit of the state general fund all money received  
24 from the collection of license taxes and fees and all net revenue and receipts from all other sources under  
25 the operation of the Montana Alcoholic Beverage Code.

26 (3) Notwithstanding any other provision of law, the distribution of tax revenue must be made  
27 according to the provisions of the law governing allocation of the tax that were in effect for the period in  
28 which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed  
29 by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally  
30 accepted accounting principles.

1 (4) All refunds of taxes must be attributed to the funds in which the taxes are currently being  
 2 recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and  
 3 penalties are currently being recorded."

4

5 **Section 78.** Section 15-1-503, MCA, is amended to read:

6 **"15-1-503. Refund of overpayment -- procedure -- judicial review.** (1) ~~When~~ Whenever there has  
 7 been an overpayment of the estate tax collected by county treasurers or any other tax collected by the  
 8 department and there is no law providing for a refund, the department shall refund the amount of the  
 9 overpayment to the taxpayer, plus any interest and penalty due the taxpayer, as provided in subsection  
 10 (2).

11 (2) A refund or payment is not allowed unless a claim is filed by the taxpayer before the expiration  
 12 of 5 years from the time that the tax was paid. Within 6 months after the claim is filed, the department  
 13 shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund  
 14 must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the  
 15 department shall notify the taxpayer and shall grant a hearing on the claim. If the department disapproves  
 16 a claim after holding a hearing, the determination of the department may be reviewed by the state tax  
 17 appeal board. If either party is dissatisfied with the ruling of the board, the dissatisfied party may appeal  
 18 the ruling as provided by 15-30-148 in subsections (3) and (4).

19 (3) The determination of the state tax appeal board may be reviewed in the district court for Lewis  
 20 and Clark County or the county in which the taxpayer resides or in which the taxpayer's principal office  
 21 or place of business is located by a complaint filed by the taxpayer or the department within 60 days after  
 22 the receipt of notice of the determination. Proceedings for review must be as specified under the Montana  
 23 Administrative Procedure Act.

24 (4) The remedies provided by this section for the collection of the tax must be stayed, and an  
 25 assessment, distraint, or proceedings in court for collection of the taxes may not be made, begun, or  
 26 prosecuted until 90 days after the court action is finally determined. From any determination of the court,  
 27 an appeal to the supreme court may be taken by either party."

28

29 **Section 79.** Section 15-2-201, MCA, is amended to read:

30 **"15-2-201. Powers and duties.** (1) It is the duty of the state tax appeal board to:

1 (a) prescribe rules for the tax appeal boards of the different counties in the performance of their  
 2 duties and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all  
 3 invited county tax appeal board members to attend if possible, and the cost of their attendance must be  
 4 paid from the appropriation of the state tax appeal board;

5 (b) grant, at its discretion, whenever good cause is shown and the need for the hearing is not  
 6 because of taxpayer negligence, permission to a county tax appeal board to meet beyond the normal time  
 7 period provided for in 15-15-101(2) to hear an appeal.

8 (c) hear appeals from decisions of the county tax appeal boards;

9 (d) hear appeals from decisions of the department of revenue in regard to business licenses,  
 10 property assessments, taxes, ~~except determinations that an employer-employee relationship existed~~  
 11 ~~between the taxpayer and individuals subjecting the taxpayer to the requirements of chapter 30, part 2,~~  
 12 and penalties.

13 (2) Oaths to witnesses in any investigation by the state tax appeal board may be administered by  
 14 a member of the board or the member's agent. If a witness does not obey a summons to appear before  
 15 the board or refuses to testify or answer any material questions or to produce records, books, papers, or  
 16 documents when required to do so, that failure or refusal must be reported to the attorney general, ~~who~~  
 17 ~~shall thereupon.~~ Upon receiving the report, the attorney general shall institute proceedings in the proper  
 18 district court to punish the witness for the neglect or refusal. A person who testifies falsely in any material  
 19 matter under consideration by the board is guilty of perjury and punished accordingly. Witnesses attending  
 20 shall receive the same compensation as witnesses in the district court. The compensation must be charged  
 21 to the proper appropriation for the board.

22 (3) The state tax appeal board also has the duties of an appeal board relating to other matters as  
 23 may be provided by law."

24

25 **Section 80.** Section 15-2-302, MCA, is amended to read:

26 **"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) A  
 27 person may appeal to the state tax appeal board a final decision of the department of revenue involving:

28 (a) property centrally assessed under chapter 23;

29 (b) classification of property as new industrial property;

30 (c) any other tax, other than the property tax, imposed under this title; or

1 (d) any other matter in which the appeal is provided by law.

2 ~~(2) (a) Except as provided in subsection (2)(b), the The appeal is made by filing a complaint with~~  
3 the board within 30 days following receipt of notice of the department's final decision. The complaint must  
4 set forth the grounds for relief and the nature of relief demanded. The board shall immediately transmit  
5 a copy of the complaint to the department.

6 ~~(b) An appeal from the department's determination of whether wages earned by an unemployment~~  
7 ~~insurance benefit claimant were properly reported to the department is initiated by filing a complaint with~~  
8 ~~the board within 10 days following receipt of notice of the department's final determination. The board~~  
9 ~~shall promptly mail a copy of the complaint to each interested party at the last known address of each~~  
10 ~~party.~~

11 (3) The department shall file with the board an answer within 30 days following filing of a  
12 complaint, or in cases involving a determination of whether wages earned by an unemployment insurance  
13 benefit claimant were properly reported to the department, any interested party, ~~as defined in~~  
14 ~~15-30-257(1)(e)~~, and the department may file an answer with the board within 10 days after receipt of  
15 a copy of the complaint filed with the board, and at that time mail a copy to the complainant. The answer  
16 must set forth the department's response to each ground for and type of relief demanded in the complaint.

17 (4) ~~(a) Except as provided in subsection (4)(b), the The board shall conduct the appeal in~~  
18 accordance with the contested case provisions of the Montana Administrative Procedure Act.

19 ~~(b) (i) In an appeal regarding the determination of whether wages earned by an unemployment~~  
20 ~~insurance claimant were properly reported to the department, the appeal must be conducted informally and~~  
21 ~~may, in the discretion of the board, be conducted by telephone or other electronic means. The appeal is~~  
22 ~~not a contested case under provisions of the Montana Administrative Procedure Act. The board, in~~  
23 ~~conducting the hearing or making its decision, is not bound by the Montana Rules of Evidence.~~

24 ~~———— (ii) The board shall make its final decision within 45 days of the date the appeal is received by the~~  
25 ~~board.~~

26 (5) The decision of the state tax appeal board is final and binding upon all interested parties unless  
27 reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal  
28 board under this section are subject to the provisions of 15-2-303 and the Montana Administrative  
29 Procedure Act to the extent that it does not conflict with 15-2-303."

30

1           **Section 81.** Section 15-6-134, MCA, is amended to read:

2           **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property  
3 includes:

4           (a) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(e) and (1)(f) ~~and (1)(g)~~ of this  
5 section, all land, except that specifically included in another class;

6           (b) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(e) and (1)(f) ~~and (1)(g)~~ of this  
7 section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence,  
8 except those specifically included in another class;

9           ~~(c) the first \$100,000 or less of the taxable market value of any improvement on real property,  
10 including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres  
11 owned or under contract for deed and actually occupied for at least 7 months a year as the primary  
12 residential dwelling of any person whose total income from all sources, including net business income and  
13 otherwise tax-exempt income of all types but not including social security income paid directly to a nursing  
14 home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of  
15 household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net  
16 business income is gross income less ordinary operating expenses but before deducting depreciation or  
17 depletion allowance, or both.~~

18           ~~(d)(c)~~ all golf courses, including land and improvements actually and necessarily used for that  
19 purpose, that consist of at least nine holes and not less than 700 lineal yards;

20           ~~(e)(d)~~ subject to [section 64] and 15-6-201(1)(z), all improvements on land that is eligible for  
21 valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property  
22 beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

23           ~~(f)-(i)~~ (e) except as provided in [section 64]:

24           (i) single-family residences, including trailers, manufactured homes, or mobile homes;

25           (ii) rental multifamily dwelling units;

26           (iii) appurtenant improvements to the residences or dwelling units, including the parcels of land  
27 upon which the residences and dwelling units are located and any leasehold improvements; and

28           (iv) vacant residential lots; and

29           ~~(g)-(i)~~ (f) (i) commercial buildings and the parcels of land upon which they are situated; and

30           (ii) vacant commercial lots.

1 (2) Class four property is taxed as follows:

2 (a) (i) Except as provided in 15-24-1402 or 15-24-1501 and subsection (2)(a)(ii) of this section,  
 3 property described in subsections (1)(a), (1)(b), ~~(1)(d)~~, (1)(e), and (1)(f), ~~and (1)(g)~~ of this section is taxed  
 4 at 3.794% of its taxable market value in tax year 1999.

5 (ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting  
 6 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.

7 ~~(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed  
 8 at the rate provided in subsection (2)(a)(ii) of its market value multiplied by a percentage figure based on  
 9 income and determined from the following table:~~

10 Income	Income	Percentage
11 Single Person	Married Couple	Multiplier
12 _____	Head of Household	
13 \$0 - \$ 6,000	\$0 - \$ 8,000	20%
14 6,001 - 9,200	8,001 - 14,000	50%
15 9,201 - 15,000	14,001 - 20,000	70%

16 ~~(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation  
 17 annually by the department. The adjustment to the income levels is determined by:~~

18 ~~(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of  
 19 the PCE for the second quarter of the year prior to the year of application to the PCE for the second  
 20 quarter of 1995; and~~

21 ~~(B) rounding the product thus obtained to the nearest whole dollar amount.~~

22 ~~(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published  
 23 quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department  
 24 of commerce.~~

25 ~~(b)~~ (1)(c) Property described in subsection ~~(1)(d)~~ (1)(c) is taxed at one-half the taxable percentage rate  
 26 established in subsection (2)(a)(i).

27 (3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as  
 28 commercial property is comparable only to other property assessed as commercial property and property  
 29 assessed as other than commercial property is comparable only to other property assessed as other than  
 30 commercial property."

1

2           **Section 82.** Section 15-6-191, MCA, is amended to read:

3           **"15-6-191. Application for certain class four classifications.** (1) A person applying for classification  
4 of property under the property tax assistance program described in ~~15-6-134(1)(e)~~ [section 64(1)(b)] shall  
5 make an affidavit to the department of revenue, on a form provided by the department without cost,  
6 stating:

7           (a) the person's income;

8           (b) the fact that the person maintains the land and improvements as the person's primary  
9 residential dwelling, when applicable; and

10           (c) other information that is relevant to the applicant's eligibility.

11           (2) This application must be made before March 15 of the year after the applicant becomes  
12 eligible. The application remains in effect in subsequent years unless there is a change in the applicant's  
13 eligibility. The taxpayer shall inform the department of any change in eligibility. The department may  
14 inquire by mail whether any change in eligibility has taken place and may require a new statement of  
15 eligibility at any time that it considers necessary.

16           (3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the  
17 information supplied, whether or not the statement is signed before a person authorized to administer  
18 oaths, and mails the application and statement to the department. This signed statement must be treated  
19 as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal  
20 offense of false swearing."

21

22           **Section 83.** Section 15-6-201, MCA, is amended to read:

23           **"15-6-201. (Temporary) Exempt categories.** (1) The following categories of property are exempt  
24 from taxation:

25           (a) except as provided in 15-24-1203, the property of:

26           (i) the United States, except:

27           (A) if congress passes legislation that allows the state to tax property owned by the federal  
28 government or an agency created by congress; or

29           (B) as provided in 15-24-1103;

30           (ii) the state, counties, cities, towns, and school districts;

- 1 (iii) irrigation districts organized under the laws of Montana and not operating for profit;
- 2 (iv) municipal corporations;
- 3 (v) public libraries; and
- 4 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- 5 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a
- 6 church and used for actual religious worship or for residences of the clergy, together with adjacent land
- 7 reasonably necessary for convenient use of the buildings;
- 8 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,
- 9 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health
- 10 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed
- 11 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is
- 12 not exempt.
- 13 (d) property that is:
- 14 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,
- 15 or 21;
- 16 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent
- 17 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 18 (iii) not maintained and operated for private or corporate profit;
- 19 (e) subject to subsection (2), property that is owned or property that is leased from a federal,
- 20 state, or local governmental entity by institutions of purely public charity if the property is directly used
- 21 for purely public charitable purposes;
- 22 (f) evidence of debt secured by mortgages of record upon real or personal property in the state
- 23 of Montana;
- 24 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
- 25 corporate profit;
- 26 (h) all household goods and furniture, including but not limited to clocks, musical instruments,
- 27 sewing machines, and wearing apparel of members of the family, used by the owner for personal and
- 28 domestic purposes or for furnishing or equipping the family residence;
- 29 (i) truck canopy covers or toppers and campers;
- 30 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

1 (k) motor homes;

2 (l) all watercraft;

3 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative  
4 association or nonprofit corporation organized to furnish potable water to its members or customers for  
5 uses other than the irrigation of agricultural land;

6 (n) the right of entry that is a property right reserved in land or received by mesne conveyance  
7 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by  
8 another to explore, prospect, or dig for oil, gas, coal, or minerals;

9 (o) (i) property that is owned and used by a corporation or association organized and operated  
10 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons  
11 with physical or mental impairments that constitute or result in substantial impediments to employment  
12 and that is not operated for gain or profit; and

13 (ii) property that is owned and used by an organization owning and operating facilities that are for  
14 the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

15 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and  
16 machinery with a market value of less than \$100;

17 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for  
18 training and practice for or competition in international sports and athletic events and that is not held or  
19 used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation"  
20 means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code  
21 and incorporated and admitted under the Montana Nonprofit Corporation Act.

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

24 (A) construct, repair, and maintain improvements to real property; or

25 (B) repair and maintain machinery, equipment, appliances, or other personal property;

26 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design,  
27 manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged  
28 in manufacturing and launching space vehicles in the state or that are owned by a contractor or  
29 subcontractor of that business and that are directly used for space vehicle design, manufacture, launch,  
30 repair, and maintenance;

- 1 (s) harness, saddlery, and other tack equipment;
- 2 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined  
3 in 33-25-105;
- 4 (u) timber as defined in 15-44-102;
- 5 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined  
6 in 61-1-114, and travel trailers as defined in 61-1-131;
- 7 (w) all vehicles registered under 61-3-456;
- 8 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,  
9 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and  
10 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under  
11 subsection (1)(x)(i);
- 12 (y) motorcycles and quadricycles;
- 13 (z) the following percentage of the market value of residential property as described in  
14 15-6-134~~(1)(e)~~(1)(d) and ~~(1)(f)~~(1)(e):
- 15 (i) 16% for tax year 1999;
- 16 (ii) 23% for tax year 2000;
- 17 (iii) 27.5% for tax year 2001; and
- 18 (iv) 31% for tax year 2002 and succeeding tax years;
- 19 (aa) the following percentage of the market value of commercial property as described in  
20 15-6-134~~(1)(g)~~(1)(f):
- 21 (i) 6.5% for tax year 1999;
- 22 (ii) 9% for tax year 2000;
- 23 (iii) 11% for tax year 2001; and
- 24 (iv) 13% for tax year 2002 and succeeding tax years;
- 25 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock  
26 used by an industrial dairy; and
- 27 (cc) light vehicles as defined in 61-1-139.
- 28 (2) (a) For the purposes of subsection (1)(e):
- 29 (i) the term "institutions of purely public charity" includes any organization that meets the  
30 following requirements:

1 (A) The organization offers its charitable goods or services to persons without regard to race,  
2 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section  
3 501(c)(3), Internal Revenue Code, as amended.

4 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
5 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
6 performances or entertainment or by other similar types of fundraising activities.

7 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property  
8 is used by the charity to produce unrelated business taxable income as that term is defined in section 512  
9 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural  
10 property shall file annually with the department a copy of its federal tax return reporting any unrelated  
11 business taxable income received by the charity during the tax year, together with a statement indicating  
12 whether the exempt property was used to generate any unrelated business taxable income.

13 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
14 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
15 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property  
16 includes all real and personal property reasonably necessary for use in connection with the public display  
17 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit  
18 organization by an individual or for-profit organization, real and personal property owned by other persons  
19 is exempt if it is:

20 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

21 (ii) held for future display; or

22 (iii) used to house or store a public display.

23 (3) For the purposes of subsection (1)(bb):

24 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and  
25 includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and  
26 milk products solely for export from the state, either directly by the dairy or after the milk or milk product  
27 has been further processed by an industrial milk processor. After export, any unprocessed milk must be  
28 further processed into other dairy products.

29 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk  
30 into milk products for export from the state.

1 (4) The following portions of the appraised value of a capital investment in a recognized nonfossil  
2 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,  
3 are exempt from taxation for a period of 10 years following installation of the property:

4 (a) \$20,000 in the case of a single-family residential dwelling;

5 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

6 **15-6-201. (Effective January 1, 2003) Exempt categories.** (1) The following categories of property  
7 are exempt from taxation:

8 (a) except as provided in 15-24-1203, the property of:

9 (i) the United States, except:

10 (A) if congress passes legislation that allows the state to tax property owned by the federal  
11 government or an agency created by congress; or

12 (B) as provided in 15-24-1103;

13 (ii) the state, counties, cities, towns, and school districts;

14 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

15 (iv) municipal corporations;

16 (v) public libraries; and

17 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

18 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a  
19 church and used for actual religious worship or for residences of the clergy, together with adjacent land  
20 reasonably necessary for convenient use of the buildings;

21 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,  
22 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health  
23 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed  
24 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is  
25 not exempt.

26 (d) property that is:

27 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,  
28 or 21;

29 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent  
30 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

- 1 (iii) not maintained and operated for private or corporate profit;
- 2 (e) subject to subsection (2), property that is owned or property that is leased from a federal,  
3 state, or local governmental entity by institutions of purely public charity if the property is directly used  
4 for purely public charitable purposes;
- 5 (f) evidence of debt secured by mortgages of record upon real or personal property in the state  
6 of Montana;
- 7 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or  
8 corporate profit;
- 9 (h) all household goods and furniture, including but not limited to clocks, musical instruments,  
10 sewing machines, and wearing apparel of members of the family, used by the owner for personal and  
11 domestic purposes or for furnishing or equipping the family residence;
- 12 (i) truck canopy covers or toppers and campers;
- 13 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 14 (k) motor homes;
- 15 (l) all watercraft;
- 16 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative  
17 association or nonprofit corporation organized to furnish potable water to its members or customers for  
18 uses other than the irrigation of agricultural land;
- 19 (n) the right of entry that is a property right reserved in land or received by mesne conveyance  
20 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by  
21 another to explore, prospect, or dig for oil, gas, coal, or minerals;
- 22 (o) (i) property that is owned and used by a corporation or association organized and operated  
23 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons  
24 with physical or mental impairments that constitute or result in substantial impediments to employment  
25 and that is not operated for gain or profit; and
- 26 (ii) property that is owned and used by an organization owning and operating facilities that are for  
27 the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 28 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and  
29 machinery with a market value of less than \$100;
- 30 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for

1 training and practice for or competition in international sports and athletic events and that is not held or  
2 used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation"  
3 means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code  
4 and incorporated and admitted under the Montana Nonprofit Corporation Act.

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

7 (A) construct, repair, and maintain improvements to real property; or

8 (B) repair and maintain machinery, equipment, appliances, or other personal property;

9 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design,  
10 manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged  
11 in manufacturing and launching space vehicles in the state or that are owned by a contractor or  
12 subcontractor of that business and that are directly used for space vehicle design, manufacture, launch,  
13 repair, and maintenance;

14 (s) harness, saddlery, and other tack equipment;

15 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined  
16 in 33-25-105;

17 (u) timber as defined in 15-44-102;

18 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined  
19 in 61-1-114, and travel trailers as defined in 61-1-131;

20 (w) all vehicles registered under 61-3-456;

21 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,  
22 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

23 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under  
24 subsection (1)(x)(i);

25 (y) motorcycles and quadricycles;

26 (z) the following percentage of the market value of residential property as described in  
27 15-6-134~~(1)(e)~~(1)(d) and ~~(1)(f)~~ (1)(e) and [section 64]:

28 (i) 16% for tax year 1999;

29 (ii) 23% for tax year 2000;

30 (iii) 27.5% for tax year 2001; and

- 1 (iv) 31% for tax year 2002 and succeeding tax years;
- 2 (aa) the following percentage of the market value of commercial property as described in  
3 15-6-134(1)(g)(1)(f):
- 4 (i) 6.5% for tax year 1999;
- 5 (ii) 9% for tax year 2000;
- 6 (iii) 11% for tax year 2001; and
- 7 (iv) 13% for tax year 2002 and succeeding tax years;
- 8 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock  
9 used by an industrial dairy;
- 10 (cc) items of personal property intended for rent or lease in the ordinary course of business if each  
11 item of personal property satisfies all of the following:
- 12 (i) the acquired cost of the personal property is less than \$15,000;
- 13 (ii) the personal property is owned by a business whose primary business income is from rental or  
14 lease of personal property to individuals and no one customer of the business accounts for more than 10%  
15 of the total rentals or leases during a calendar year; and
- 16 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and
- 17 (dd) light vehicles as defined in 61-1-139.
- 18 (2) (a) For the purposes of subsection (1)(e):
- 19 (i) the term "institutions of purely public charity" includes any organization that meets the  
20 following requirements:
- 21 (A) The organization offers its charitable goods or services to persons without regard to race,  
22 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section  
23 501(c)(3), Internal Revenue Code, as amended.
- 24 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
25 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
26 performances or entertainment or by other similar types of fundraising activities.
- 27 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property  
28 is used by the charity to produce unrelated business taxable income as that term is defined in section 512  
29 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural  
30 property shall file annually with the department a copy of its federal tax return reporting any unrelated

1 business taxable income received by the charity during the tax year, together with a statement indicating  
2 whether the exempt property was used to generate any unrelated business taxable income.

3 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
4 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
5 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property  
6 includes all real and personal property reasonably necessary for use in connection with the public display  
7 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit  
8 organization by an individual or for-profit organization, real and personal property owned by other persons  
9 is exempt if it is:

10 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

11 (ii) held for future display; or

12 (iii) used to house or store a public display.

13 (3) For the purposes of subsection (1)(bb):

14 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and  
15 includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and  
16 milk products solely for export from the state, either directly by the dairy or after the milk or milk product  
17 has been further processed by an industrial milk processor. After export, any unprocessed milk must be  
18 further processed into other dairy products.

19 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk  
20 into milk products for export from the state.

21 (4) The following portions of the appraised value of a capital investment in a recognized nonfossil  
22 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,  
23 are exempt from taxation for a period of 10 years following installation of the property:

24 (a) \$20,000 in the case of a single-family residential dwelling;

25 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

26 **15-6-201. (Effective on occurrence of contingency) Exempt categories.** (1) The following  
27 categories of property are exempt from taxation:

28 (a) except as provided in 15-24-1203, the property of:

29 (i) the United States, except:

30 (A) if congress passes legislation that allows the state to tax property owned by the federal

- 1 government or an agency created by congress; or
- 2 (B) as provided in 15-24-1103;
- 3 (ii) the state, counties, cities, towns, and school districts;
- 4 (iii) irrigation districts organized under the laws of Montana and not operating for profit;
- 5 (iv) municipal corporations;
- 6 (v) public libraries; and
- 7 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- 8 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a
- 9 church and used for actual religious worship or for residences of the clergy, together with adjacent land
- 10 reasonably necessary for convenient use of the buildings;
- 11 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,
- 12 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health
- 13 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed
- 14 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is
- 15 not exempt.
- 16 (d) property that is:
- 17 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,
- 18 or 21;
- 19 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent
- 20 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 21 (iii) not maintained and operated for private or corporate profit;
- 22 (e) subject to subsection (2), property that is owned or property that is leased from a federal,
- 23 state, or local governmental entity by institutions of purely public charity if the property is directly used
- 24 for purely public charitable purposes;
- 25 (f) evidence of debt secured by mortgages of record upon real or personal property in the state
- 26 of Montana;
- 27 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
- 28 corporate profit;
- 29 (h) all household goods and furniture, including but not limited to clocks, musical instruments,
- 30 sewing machines, and wearing apparel of members of the family, used by the owner for personal and

- 1 domestic purposes or for furnishing or equipping the family residence;
- 2 (i) truck canopy covers or toppers and campers;
- 3 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 4 (k) motor homes;
- 5 (l) all watercraft;
- 6 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative
- 7 association or nonprofit corporation organized to furnish potable water to its members or customers for
- 8 uses other than the irrigation of agricultural land;
- 9 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 10 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by
- 11 another to explore, prospect, or dig for oil, gas, coal, or minerals;
- 12 (o) (i) property that is owned and used by a corporation or association organized and operated
- 13 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons
- 14 with physical or mental impairments that constitute or result in substantial impediments to employment
- 15 and that is not operated for gain or profit; and
- 16 (ii) property that is owned and used by an organization owning and operating facilities that are for
- 17 the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 18 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
- 19 machinery with a market value of less than \$100;
- 20 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for
- 21 training and practice for or competition in international sports and athletic events and that is not held or
- 22 used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation"
- 23 means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code
- 24 and incorporated and admitted under the Montana Nonprofit Corporation Act.
- 25 (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are
- 26 customarily hand-held and that are used to:
- 27 (A) construct, repair, and maintain improvements to real property; or
- 28 (B) repair and maintain machinery, equipment, appliances, or other personal property;
- 29 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design,
- 30 manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged

1 in manufacturing and launching space vehicles in the state or that are owned by a contractor or  
2 subcontractor of that business and that are directly used for space vehicle design, manufacture, launch,  
3 repair, and maintenance;

4 (s) harness, saddlery, and other tack equipment;

5 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined  
6 in 33-25-105;

7 (u) timber as defined in 15-44-102;

8 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined  
9 in 61-1-114, and travel trailers as defined in 61-1-131;

10 (w) all vehicles registered under 61-3-456;

11 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,  
12 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

13 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under  
14 subsection (1)(x)(i);

15 (y) motorcycles and quadricycles;

16 (z) the following percentage of the market value of residential property as described in  
17 15-6-134~~(1)(e)~~(1)(d) and ~~(1)(f)~~(1)(e):

18 (i) 16% for tax year 1999;

19 (ii) 23% for tax year 2000;

20 (iii) 27.5% for tax year 2001; and

21 (iv) 31% for tax year 2002 and succeeding tax years;

22 (aa) the following percentage of the market value of commercial property as described in  
23 15-6-134~~(1)(e)~~(1)(f):

24 (i) 6.5% for tax year 1999;

25 (ii) 9% for tax year 2000;

26 (iii) 11% for tax year 2001; and

27 (iv) 13% for tax year 2002 and succeeding tax years;

28 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock  
29 used by an industrial dairy;

30 (cc) items of personal property intended for rent or lease in the ordinary course of business if each

1 item of personal property satisfies all of the following:

2 (i) the acquired cost of the personal property is less than \$15,000;

3 (ii) the personal property is owned by a business whose primary business income is from rental or  
4 lease of personal property to individuals and no one customer of the business accounts for more than 10%  
5 of the total rentals or leases during a calendar year; and

6 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

7 (dd) all agricultural implements and equipment;

8 (ee) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and  
9 supplies except those included in class five;

10 (ff) all manufacturing machinery, fixtures, equipment, tools that are not exempt under  
11 15-6-201(1)(r), and supplies except those included in class five;

12 (gg) all goods and equipment that are intended for rent or lease, except goods and equipment that  
13 are specifically included and taxed in another class;

14 (hh) special mobile equipment as defined in 61-1-104;

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

17 (jj) x-ray and medical and dental equipment;

18 (kk) citizens' band radios and mobile telephones;

19 (ll) radio and television broadcasting and transmitting equipment;

20 (mm) cable television systems;

21 (nn) coal and ore haulers;

22 (oo) theater projectors and sound equipment; and

23 (pp) light vehicles as defined in 61-1-139.

24 (2) (a) For the purposes of subsection (1)(e):

25 (i) the term "institutions of purely public charity" includes any organization that meets the  
26 following requirements:

27 (A) The organization offers its charitable goods or services to persons without regard to race,  
28 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section  
29 501(c)(3), Internal Revenue Code, as amended.

30 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the

1 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
2 performances or entertainment or by other similar types of fundraising activities.

3 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property  
4 is used by the charity to produce unrelated business taxable income as that term is defined in section 512  
5 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural  
6 property shall file annually with the department a copy of its federal tax return reporting any unrelated  
7 business taxable income received by the charity during the tax year, together with a statement indicating  
8 whether the exempt property was used to generate any unrelated business taxable income.

9 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
10 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold  
11 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property  
12 includes all real and personal property reasonably necessary for use in connection with the public display  
13 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit  
14 organization by an individual or for-profit organization, real and personal property owned by other persons  
15 is exempt if it is:

16 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

17 (ii) held for future display; or

18 (iii) used to house or store a public display.

19 (3) For the purposes of subsection (1)(bb):

20 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and  
21 includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and  
22 milk products solely for export from the state, either directly by the dairy or after the milk or milk product  
23 has been further processed by an industrial milk processor. After export, any unprocessed milk must be  
24 further processed into other dairy products.

25 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk  
26 into milk products for export from the state.

27 (4) The following portions of the appraised value of a capital investment in a recognized nonfossil  
28 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,  
29 are exempt from taxation for a period of 10 years following installation of the property:

30 (a) \$20,000 in the case of a single-family residential dwelling;

1 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."  
2

3 **Section 84.** Section 15-7-103, MCA, is amended to read:

4 **"15-7-103. Classification and appraisal -- general and uniform methods.** (1) It is the duty of the  
5 department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

6 (a) for a general and uniform method of classifying lands in the state for the purpose of securing  
7 an equitable and uniform basis of assessment of lands for taxation purposes;

8 (b) for a general and uniform method of appraising city and town lots;

9 (c) for a general and uniform method of appraising rural and urban improvements;

10 (d) for a general and uniform method of appraising timberlands.

11 (2) All lands must be classified according to their use or uses and graded within each class  
12 according to soil and productive capacity. In the classification work, use must be made of soil surveys and  
13 maps and all other pertinent available information.

14 (3) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the  
15 sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States  
16 government, or by metes and bounds, whichever yields a true description of the land.

17 (4) All agricultural lands must be classified and appraised as agricultural lands without regard to  
18 the best and highest value use of adjacent or neighboring lands.

19 (5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111,  
20 all property classified in 15-6-134 and [section 64] must be appraised on the taxable portion of its market  
21 value in the same year. The department shall publish a rule specifying the year used in the appraisal.

22 (6) All sewage disposal systems and domestic use water supply systems of all dwellings may not  
23 be appraised, assessed, and taxed separately from the land, house, or other improvements in which they  
24 are located. In no event may the sewage disposal or domestic water supply systems be included twice by  
25 including them in the valuation and assessing them separately."  
26

27 **Section 85.** Section 15-8-111, MCA, is amended to read:

28 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be  
29 assessed at 100% of its market value except as otherwise provided.

30 (2) (a) Market value is the value at which property would change hands between a willing buyer

1 and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable  
2 knowledge of relevant facts.

3 (b) If the department uses construction cost as one approximation of market value, the department  
4 shall fully consider reduction in value caused by depreciation, whether through physical depreciation,  
5 functional obsolescence, or economic obsolescence.

6 (c) If the department uses the capitalization of net income method as one approximation of market  
7 value and sufficient, relevant information on comparable sales and construction cost exists, the department  
8 shall rely upon the two methods that provide a similar market value as the better indicators of market  
9 value.

10 (d) Except as provided in subsection (3), the market value of special mobile equipment and  
11 agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal  
12 guides and manuals or the value before reconditioning and profit margin. The department shall prepare  
13 valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

14 (3) The department may not adopt a lower or different standard of value from market value in  
15 making the official assessment and appraisal of the value of property, except:

16 (a) the wholesale value for agricultural implements and machinery is the average wholesale value  
17 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American  
18 equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category  
19 is unavailable, the department shall use a comparable publication or wholesale value category.

20 (b) for agricultural implements and machinery not listed in an official guide, the department shall  
21 prepare a supplemental manual in which the values reflect the same depreciation as those found in the  
22 official guide; and

23 (c) as otherwise authorized in Titles 15 and 61.

24 (4) For purposes of taxation, assessed value is the same as appraised value.

25 (5) The taxable value for all property is the percentage of market or assessed value established  
26 for each class of property.

27 (6) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, ~~and~~ 15-6-145,  
28 and [section 64] is as follows:

29 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds  
30 after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in

1 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

2 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

3 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity  
4 of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are  
5 valued as agricultural lands for tax purposes.

6 (d) Properties in 15-6-134, under class four, or [section 64], under class eleven, are assessed at  
7 the applicable percentage of market value minus any portion of market value that is exempt from taxation  
8 under 15-6-201(1)(z) and (1)(aa).

9 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value  
10 of the land when valued as forest land.

11 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula  
12 described in 15-23-205.

13 (7) Land and the improvements on the land are separately assessed when any of the following  
14 conditions occur:

15 (a) ownership of the improvements is different from ownership of the land;

16 (b) the taxpayer makes a written request; or

17 (c) the land is outside an incorporated city or town."  
18

19 **Section 86.** Section 15-31-101, MCA, is amended to read:

20 **"15-31-101. Organizations subject to tax.** (1) The term "corporation" includes associations,  
21 joint-stock companies, common-law trusts, ~~and~~ business trusts, limited liability companies, as defined in  
22 35-8-102, limited liability partnerships, partnerships, sole proprietorships, and small business corporations  
23 ~~which~~ that do business in an organized capacity, and all other corporations whether created, organized,  
24 or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or  
25 the United States.

26 (2) The terms "engaged in business" and "doing business" both mean actively engaging in any  
27 transaction for the purpose of financial or pecuniary gain or profit.

28 (3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided,  
29 every corporation engaged in business in the state of Montana shall annually pay to the state treasurer as  
30 a license fee for the privilege of carrying on business in this state the percentage or percentages of its total

1 net income for the preceding taxable year at the rate set forth in this chapter. In the case of corporations  
2 having income from business activity ~~which~~ that is taxable both within and outside of this state, the  
3 license fee must be measured by the net income derived from or attributable to Montana sources as  
4 determined under part 3. Except as provided in 15-31-502, this tax is due and payable on the 15th day  
5 of the 5th month following the close of the taxable year of the corporation. However, the tax becomes  
6 a lien as provided in this chapter on the last day of the taxable year in which the income was earned and  
7 is for the privilege of carrying on business in this state for the taxable year in which the income was  
8 earned.

9 (4) Every bank organized under the laws of the state of Montana, of any other state, or of the  
10 United States and every savings and loan association organized under the laws of this state or of the  
11 United States is subject to the Montana corporation license tax provided for under this chapter. A foreign  
12 capital depository chartered under the laws of Montana is not subject to the Montana corporation license  
13 tax provided for under this chapter until October 1, 2012. For taxable years beginning on and after  
14 January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C.  
15 548)."

16

17 **Section 87.** Section 15-31-102, MCA, is amended to read:

18 **"15-31-102. Organizations exempt from tax -- unrelated business income not exempt.** (1) Except  
19 as provided in subsection (3), there may not be taxed under this title any income received by any:

20 (a) labor, agricultural, or horticultural organization;

21 (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the  
22 exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for  
23 the payment of life, sick, accident, or other benefits to the members of the society, order, or association  
24 or their dependents;

25 (c) cemetery company owned and operated exclusively for the benefit of its members;

26 (d) corporation or association organized and operated exclusively for religious, charitable,  
27 scientific, or educational purposes, no part of the net income of which inures to the benefit of any private  
28 stockholder or individual;

29 (e) business league, chamber of commerce, or board of trade not organized for profit, no part of  
30 the net income of which inures to the benefit of any private stockholder or individual;

1 (f) civic league or organization not organized for profit but operated exclusively for the promotion  
2 of social welfare;

3 (g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable  
4 purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

5 (h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation  
6 company, mutual or cooperative telephone company, or similar organization of a purely local character,  
7 the income of which consists solely of assessments, dues, and fees collected from members for the sole  
8 purpose of meeting its expenses;

9 (i) cooperative association or corporation engaged in the business of operating a rural  
10 electrification system or systems for the transmission or distribution of electrical energy on a cooperative  
11 basis;

12 (j) corporations or associations organized for the exclusive purpose of holding title to property,  
13 collecting income from the property, and turning over the entire amount of the income, less expenses, to  
14 an organization that itself is exempt from the tax imposed by this title;

15 (k) wool and sheep pool, which is an association owned and operated by agricultural producers  
16 organized to market association members' wool and sheep, the income of which consists solely of  
17 assessments, dues, and fees collected from members for the sole purpose of meeting its expenses.  
18 Income, for this purpose, does not include expenses and money distributed to members contributing wool  
19 and sheep.

20 (l) corporation that qualifies as a domestic international sales corporation (DISC) under the  
21 provisions of section 991, et seq., of the Internal Revenue Code, (26 U.S.C. 991, et seq.), and that has  
22 in effect for the entire taxable year a valid election under federal law to be treated as a DISC; ~~if a~~  
23 ~~corporation makes that election under federal law, each person who at any time is a shareholder of the~~  
24 ~~corporation is subject to taxation under Title 15, chapter 30, on the earnings and profits of this DISC in~~  
25 ~~the same manner as provided by federal law for all periods for which the election is effective.~~

26 (m) farmers' market association not organized for profit, no part of the net income of which inures  
27 to the benefit of any member, but that is organized for the sole purpose of providing for retail distribution  
28 of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

29 (n) common trust fund as defined in 26 U.S.C. 584(a);

30 (o) foreign capital depository chartered under the provisions of 32-8-104, 32-8-201, and

1 32-8-202.

2 (2) In determining the license fee to be paid under this part, there may not be included any  
3 earnings derived from any public utility managed or operated by any subdivision of the state or from the  
4 exercise of any governmental function.

5 (3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue  
6 Code of 1954, {26 U.S.C. 512}, as amended, earned by any exempt corporation resulting in a federal  
7 unrelated business income tax liability of more than \$100 must be taxed as other corporation income is  
8 taxed under this title. An exempt corporation subject to taxation on unrelated business income under this  
9 section shall file a copy of its federal exempt organization business income tax return on which it reports  
10 its unrelated business income with the department of revenue."

11

12 **Section 88.** Section 15-31-113, MCA, is amended to read:

13 **"15-31-113. Gross income and net income.** (1) The term "gross income" means all income  
14 recognized in determining the corporation's gross income for federal income tax purposes and:

15 (a) including:

16 (i) interest exempt from federal income tax and exempt-interest dividends as defined in section  
17 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

18 (ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal  
19 corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as  
20 those sections may be amended or renumbered, attributable to stockholders, either individual or corporate,  
21 not subject to Montana income or license tax under ~~Title 15, chapter 30~~ or this chapter 31, as appropriate,  
22 on the gain passing through to the stockholders pursuant to federal law; and

23 (b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation  
24 pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended  
25 or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to  
26 subsection (1)(a)(ii) of this section.

27 (2) The term "net income" means the gross income of the corporation less the deductions set  
28 forth in 15-31-114.

29 (3) A corporation is not exempt from the corporation license tax unless specifically provided for  
30 under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not

1 exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income  
2 for corporation license tax purposes in the same manner as a corporation that is subject to or liable for  
3 federal income tax according to the provisions for determining gross income in the federal Internal Revenue  
4 Code in effect for the taxable year."

5

6 **Section 89.** Section 15-31-114, MCA, is amended to read:

7 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the  
8 following deductions are allowed from the gross income received by the corporation within the year from  
9 all sources:

10 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the  
11 maintenance and operation of its business and properties, including reasonable allowance for salaries for  
12 personal services actually rendered, subject to the limitation contained in this section, and rentals or other  
13 payments required to be made as a condition to the continued use or possession of property to which the  
14 corporation has not taken or is not taking title or in which it has no equity. ~~A deduction is not allowed for~~  
15 ~~salaries paid upon which the recipient has not paid Montana state income tax. However, when~~ Whenever  
16 a domestic corporation is corporation is taxed on income derived from outside the state, salaries of  
17 officers paid in connection with securing the income are deductible.

18 (b) (i) all losses actually sustained and charged off within the year and not compensated by  
19 insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of  
20 property used in the trade or business. The allowance is determined according to the provisions of section  
21 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation  
22 must be the same as the elections made for federal income tax purposes. A deduction is not allowed for  
23 any amount paid out for any buildings, permanent improvements, or betterments made to increase the  
24 value of any property or estate, and a deduction may not be made for any amount of expense of restoring  
25 property or making good the exhaustion of property for which an allowance is or has been made. A  
26 depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105(15).

27 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined  
28 according to the provisions of 15-31-119.

29 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable  
30 allowance for depletion and for depreciation of improvements. The reasonable allowance must be

1 determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All  
 2 elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and  
 3 development costs and intangible drilling expenses for corporation license tax purposes must be the same  
 4 as the elections made for federal income tax purposes.

5 (d) ~~The~~ the amount of interest paid within the year on its indebtedness incurred in the operation  
 6 of the business from which its income is derived. Interest may not be allowed as a deduction if paid on  
 7 an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct  
 8 of business unless the income from the property or business would be taxable under this part.

9 (e) (i) taxes paid within the year, except the following:

10 (A) taxes imposed by this part;

11 (B) taxes assessed against local benefits of a kind tending to increase the value of the property  
 12 assessed;

13 (C) taxes on or according to or measured by net income or profits imposed by authority of the  
 14 government of the United States;

15 (D) taxes imposed by any other state or country upon or measured by net income or profits.

16 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county,  
 17 school district, or municipality of this state.

18 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

19 (g) (i) except as provided in subsection (1)(g)(ii), charitable contributions and gifts that qualify for  
 20 deduction under section 170 of the Internal Revenue Code, as amended.

21 (ii) The public service commission may not allow in the rate base of a regulated corporation the  
 22 inclusion of contributions made under this subsection.

23 (h) (i) all interest income from obligations of the United States government, the state of Montana,  
 24 a county, municipality, or district, or other political subdivision of the state and any other interest income  
 25 that is exempt from taxation by Montana under federal law;

26 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,  
 27 26 U.S.C. 852(b)(5), as that section may be amended or renumbered, that are attributable to the interest  
 28 referred to in subsection (1)(h)(i).

29 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair  
 30 market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated

1 technological equipment or apparatus intended for use with the computer donated to an elementary,  
2 secondary, or accredited postsecondary school located in Montana if:

3 (a) the contribution is made no later than 5 years after the manufacture of the donated property  
4 is substantially completed;

5 (b) the property is not transferred by the donee in exchange for money, other property, or  
6 services; and

7 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept  
8 the property and representing that the use and disposition of the property will be in accordance with the  
9 provisions of subsection (2)(b).

10 (3) In the case of a regulated investment company or a fund of a regulated investment company,  
11 as defined in section 851(a) or 851(h) of the Internal Revenue Code of 1986, as that section may be  
12 amended or renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the  
13 Internal Revenue Code of 1986, as that section may be amended or renumbered, except that the deduction  
14 for dividends is not allowed with respect to dividends attributable to any income that is not subject to tax  
15 under this chapter when earned by the regulated investment company. For the purposes of computing the  
16 deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code  
17 of 1986, as those sections may be amended or renumbered, apply. A regulated investment company is  
18 not allowed a deduction for dividends received as defined in sections 243 through 245 of the Internal  
19 Revenue Code of 1986, as those sections may be amended or renumbered."

20

21 **Section 90.** Section 15-31-131, MCA, is amended to read:

22 **"15-31-131. Credit for dependent care assistance.** (1) There is a credit against the taxes  
23 otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable  
24 year by the employer for dependent care assistance actually provided to or on behalf of an employee if the  
25 assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets  
26 the requirements of section 129(d)(2) through ~~(6)~~(d)(6) of the Internal Revenue Code (26 U.S.C. 129(d)(2)  
27 through (d)(6)).

28 (2) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or  
29 incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of day-care  
30 assistance actually provided to or on behalf of the employee.

1 (b) For the purposes of this subsection, marital status must be determined under the rules of  
2 section 21(e)(3) and ~~(4)(e)(4)~~ of the Internal Revenue Code, {26 U.S.C. 21(e)(3) and (e)(4)}.

3 (c) In the case of an onsite facility, the amount upon which the credit allowed under subsection  
4 (1) is based, with respect to any dependent, must be based upon utilization and the value of the services  
5 provided.

6 (3) An amount paid or incurred during the taxable year of an employer in providing dependent care  
7 assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1)  
8 if the amount was paid or incurred to an individual described in section 129(c)(1) or ~~(2)(c)(2)~~ of the Internal  
9 Revenue Code, {26 U.S.C. 129(c)(1) or (c)(2)}.

10 (4) An amount paid or incurred by an employer to provide dependent care assistance to or on  
11 behalf of an employee does not qualify for the credit allowed under subsection (1):

12 (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

13 (b) if the amount is paid or incurred for services not performed within this state.

14 (5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or  
15 allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based)  
16 must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under  
17 this section must be made at the time of filing the tax return.

18 (6) The amount upon which the credit allowed under subsection (1) is based may not be included  
19 in the gross income of the employee to whom the dependent care assistance is provided. However, the  
20 amount excluded from the income of an employee under this section may not exceed the limitations  
21 provided in section 129(b) of the Internal Revenue Code, {26 U.S.C. 129(b)}. ~~For purposes of Title 15,~~  
22 ~~chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages"~~  
23 ~~does not include any amount excluded under this subsection. Amounts excluded under this subsection do~~  
24 ~~not qualify as expenses for which a deduction is allowed to the employee under 15-30-121.~~

25 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a  
26 particular year may be carried forward and offset against the taxpayer's tax liability for the next  
27 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward  
28 and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year  
29 in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth  
30 succeeding tax year.

1           ~~(8) If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code~~  
 2 ~~(26 U.S.C. 1361), and the taxpayer elects to take tax credit relief, the election may be made on behalf~~  
 3 ~~of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro~~  
 4 ~~rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax~~  
 5 ~~credit applies to the corporation as otherwise provided by law.~~

6           ~~(9)(8)~~ For purposes of the credit allowed under subsection (1):

7           (a) ~~The~~ the definitions and special rules contained in section 129(e) of the Internal Revenue Code,  
 8 ~~{26 U.S.C. 129(e)}~~, apply to the extent applicable; and

9           (b) ~~"Employer"~~ "employer" means an employer carrying on a business, trade, occupation, or  
 10 profession in this state."

11

12           **Section 91.** Section 15-31-135, MCA, is amended to read:

13           **"15-31-135. Contribution Credit for contribution by small business corporation to university**  
 14 **system or private college foundation.** ~~A contribution to a general endowment fund of the Montana~~  
 15 ~~university system or a Montana private college by a small business corporation, as defined in 15-31-201,~~  
 16 ~~qualifies for the credit in 15-30-163. The credit must be attributed to shareholders, using the same~~  
 17 ~~proportion used to report the corporation's income or loss for Montana income tax purposes. (1) A~~  
 18 ~~corporation is allowed a tax credit against taxes imposed by 15-31-101 in an amount equal to 10% of the~~  
 19 ~~aggregate amount of charitable contributions made by the taxpayer during the year to any of the general~~  
 20 ~~endowment funds of the Montana university system foundations or a general endowment fund of a~~  
 21 ~~Montana private college or its foundation. The maximum credit that a taxpayer may claim in a year under~~  
 22 ~~this section is \$500. The credit allowed under this section may not exceed the taxpayer's tax liability~~  
 23 ~~under this chapter.~~

24           ~~(2) There is no carryback or carryforward of the credit permitted under this section, and the credit~~  
 25 ~~must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

26           ~~(3) (a) For the purposes of this section, "foundation" means a nonprofit organization that is~~  
 27 ~~created exclusively for the benefit of any unit of the Montana university system or a Montana private~~  
 28 ~~college and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code.~~

29           ~~(b) For the purposes of this section, "Montana private college" means a nonprofit private~~  
 30 ~~educational institution:~~

1 (i) whose main campus and primary operations are within the state; and  
 2 (ii) that offers baccalaureate degree level education and is accredited for that purpose by a national  
 3 or regional accrediting agency recognized by the board of regents of higher education.

4 (4) The credit must be attributed to shareholders, using the same proportion used to report the  
 5 corporation's income or loss for Montana license or income tax purposes under this chapter."

6

7 **Section 92.** Section 15-31-137, MCA, is amended to read:

8 **"15-31-137. ~~Small business corporation and partnership credit~~ Credit for alternative fuel**  
 9 **conversion.** ~~If equipment and labor costs incurred to convert a motor vehicle to operate on alternative fuel~~  
 10 ~~are claimed as a credit under 15-30-164 by a small business corporation, as defined in 15-31-201, or a~~  
 11 ~~partnership, the credit must be attributed to shareholders or partners using the same proportion used to~~  
 12 ~~report the corporation's or partnership's income or loss for Montana income tax purposes. (1) (a) Except~~  
 13 ~~as provided in subsection (1)(b), a corporation is allowed a tax credit against taxes imposed by 15-31-101~~  
 14 ~~for equipment and labor costs incurred to convert a motor vehicle licensed in Montana to operate on~~  
 15 ~~alternative fuel.~~

16 (b) A seller of alternative fuel may not receive a credit for converting the seller's own vehicles to  
 17 the alternative fuel that the seller sells.

18 (2) The maximum credit that a taxpayer may claim in a year under this section is an amount equal  
 19 to 50% of the equipment and labor costs incurred, but the credit may not exceed:

20 (a) \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

21 (b) \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

22 (3) For the purposes of this section, "alternative fuel" means:

23 (a) natural gas;

24 (b) liquefied petroleum gas;

25 (c) liquefied natural gas;

26 (d) hydrogen;

27 (e) electricity; or

28 (f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any  
 29 combination of them.

30 (4) (a) The credit allowed under this section may not exceed the taxpayer's tax liability under this

1 chapter.

2 (b) There is no carryback or carryforward of the credit permitted under this section, and the credit  
 3 must be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

4

5 **Section 93.** Section 15-31-150, MCA, is amended to read:

6 **"15-31-150. Credit for research expenses and research payments.** (1) (a) There is a credit against  
 7 taxes otherwise due under this chapter for increases in qualified research expense and basic research  
 8 payments for research conducted in Montana. Except as provided in this section, the credit must be  
 9 determined in accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as that section  
 10 read on July 1, 1996, or as subsequently amended.

11 (b) For purposes of the credit, the:

12 (i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;

13 (ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;

14 (iii) special rules in 26 U.S.C. 41(g) do not apply; and

15 (iv) termination date provided for in 26 U.S.C. 41(h) does not apply.

16 (2) The credit allowed under this section for a tax year may not exceed the tax liability under this  
 17 ~~chapter 30 or 31~~. A credit may not be refunded if a taxpayer has tax liability less than the amount of the  
 18 credit.

19 (3) The credit allowed under this section may be used as a carryback against taxes imposed under  
 20 this ~~chapter 30 or 31~~ for the 2 preceding tax years and may be used as a carryforward against taxes  
 21 imposed by this ~~chapter 30 or 31~~ for the 15 succeeding tax years. The entire amount of the credit not  
 22 used in the year earned must be carried first to the earliest tax year in which the credit may be applied and  
 23 then to each succeeding tax year.

24 (4) A taxpayer may not claim a current year credit under this section after December 31, 2010.  
 25 However, any unused credit may be carried back or forward as provided in subsection (3).

26 ~~(5) A corporation, an individual, a small business corporation, a partnership, a limited liability~~  
 27 ~~partnership, or a limited liability company qualifies for the credit under this section. If the credit is claimed~~  
 28 ~~by a small business corporation, a partnership, a limited liability partnership, or a limited liability company,~~  
 29 ~~the credit must be attributed to the individual shareholders, partners, members, or managers in the same~~  
 30 ~~proportion used to report income or loss for state tax purposes. The allocations in 26 U.S.C. 41(f) do not~~

1 ~~apply to this section.~~

2 ~~(6)~~(5) For purposes of calculating the credit, the following definitions apply:

3 (a) "Gross receipts" means:

4 (i) for a corporation that has income from business activity that is taxable only within the state,  
5 all gross sales less returns of the corporation for the tax year; and

6 (ii) for a corporation that has income from business activity that is taxable both within and outside  
7 of the state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

8 (b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d), but is limited to research  
9 conducted in Montana.

10 (c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b), but includes only  
11 the sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

12 (d) "Supplies" has the meaning provided in 26 U.S.C. 42(b)(2)(C), but includes only those supplies  
13 used in the conduct of qualified research in Montana.

14 (e) "Wages" has the meaning provided in 39-51-201 and includes only those wages paid or  
15 incurred for an employee for qualified services performed by the employee in Montana. For a self-employed  
16 individual and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the  
17 employee.

18 ~~(7)~~(6) The department shall adopt rules, prepare forms, maintain records, and perform other duties  
19 necessary to implement this section. In adopting rules to implement this section, the department shall  
20 conform the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except  
21 to the extent that the regulations need to be modified to conform to this section."

22

23 **Section 94.** Section 15-31-151, MCA, is amended to read:

24 **"15-31-151. Credit for preservation of historic buildings.** (1) (a) There is allowed as a credit  
25 against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed  
26 for qualified rehabilitation expenditures, with respect to any certified historic building located in Montana,  
27 as provided in 26 U.S.C. 47 or as that section may be renumbered or amended.

28 (b) The amount of the credit allowed for a tax year is 25% of the amount of the credit determined  
29 under 26 U.S.C. 47(a)(2) or as that section may be renumbered or amended.

30 (2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less

1 than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of  
 2 credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year,  
 3 the excess attributable to the current tax year's credit is a credit carryover to the 7 succeeding tax years.  
 4 The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and  
 5 the oldest available unused credit must be used first.

6 ~~(3) If the credit under this section is claimed by a small business corporation, as defined in~~  
 7 ~~15-31-201, or a partnership, the credit must be attributed to shareholders or partners, using the same~~  
 8 ~~proportion used to report the corporation's or partnership's income or loss for Montana income tax~~  
 9 ~~purposes."~~

10

11 **Section 95.** Section 15-31-161, MCA, is amended to read:

12 **"15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment.** (1) A  
 13 corporation is allowed a credit in an amount equal to 50% of a charitable gift against the taxes otherwise  
 14 due under 15-31-101 for charitable contributions made to a qualified endowment, as defined in ~~15-30-165~~  
 15 subsection (2). The maximum credit that may be claimed by a corporation for contributions made from all  
 16 sources in a year under this section is \$10,000. The credit allowed under this section may not exceed the  
 17 ~~corporate~~ taxpayer's income tax liability. The credit allowed under this section may not be claimed by a  
 18 corporation if the taxpayer has included the full amount of the contribution upon which the amount of the  
 19 credit was computed as a deduction under 15-31-114. There is no carryback or carryforward of the credit  
 20 permitted under this section, and the credit must be applied to the tax year in which the contribution is  
 21 made.

22 (2) For the purposes of this section, "qualified endowment" means a permanent, irrevocable fund  
 23 that is held by a Montana incorporated or established organization that is:

24 (a) a tax-exempt organization under 26 U.S.C. 501(c)(3); or

25 (b) a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on  
 26 behalf of a tax-exempt organization. (Terminates December 31, 2001--sec. 9, Ch. 537, L. 1997.)"

27

28 **Section 96.** Section 15-31-203, MCA, is amended to read:

29 **"15-31-203. Small business option unavailable on dissolution -- exception.** In the case of  
 30 corporation dissolution, ~~no~~ benefits may not be taken under the "small business act" or under any law or

1 regulation shifting the tax to be paid from the corporation to the shareholders ~~unless all shareholders agree~~  
2 ~~to assume personal income tax liability the same as they would bear if they were residents of this state."~~

3

4 **Section 97.** Section 15-31-702, MCA, is amended to read:

5 **"15-31-702. Distribution of corporation license taxes collected from banks or savings and loan**  
6 **associations.** (1) All corporation license taxes, interest, and penalties collected from banks and savings and  
7 loan associations must, in accordance with the provisions of 15-1-501, be distributed in the following  
8 manner:

9 (a) Twenty percent must be allocated as provided in ~~15-1-501(1)(b)~~ 15-1-501(1)(a).

10 (b) Eighty percent is statutorily appropriated, as provided in 17-7-502, for allocation to the various  
11 taxing jurisdictions within the county in which a bank or savings and loan association is located.

12 (2) The corporation license taxes, interest, and penalties distributed under subsection (1)(b) must  
13 be allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the  
14 total mill levy of the taxing authorities of the district in which the bank or savings and loan association is  
15 located.

16 (3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a  
17 county permitted under state law to levy mills against the taxable value of property in the taxing district  
18 in which the bank or savings and loan association is located.

19 (4) If a return filed by a bank or savings and loan association involves branches or offices in more  
20 than one taxing jurisdiction, the department shall provide a method by rule for equitable distribution among  
21 those taxing jurisdictions.

22 (5) All corporation license taxes paid from consolidated returns in which 50% or more of the  
23 income is from banks or savings and loan associations must be distributed as provided in subsection (1).

24 (6) (a) The department shall annually distribute to each county having a bank or savings and loan  
25 association a percentage of the total amount collected pursuant to subsection (1), including penalties,  
26 interest, or additional taxes from assessments and less any refunds, from July 1 of the previous year  
27 through June 30 of the current year. The distribution must be sent to each county treasurer for distribution  
28 to the taxing jurisdictions in each district on or before August 1 of each year.

29 (b) The percentage for distribution must be calculated by taking an average of the ratios of total  
30 bank tax liability within a school district to total bank tax liability for all school districts in which a bank

1 or savings and loan association is located in each of the 5 years preceding the current year. The total tax  
 2 liability must be computed for each year by including all returns filed during that year and all amended  
 3 returns and adjustments to tax filings made by the department during that year, no matter to which tax  
 4 year the amended return actually applied."

5

6 **Section 98.** Section 15-32-104, MCA, is amended to read:

7 **"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103 and ~~15-32-109~~  
 8 is limited to:

9 (1) capital investments made after January 1, 1975;

10 (2) persons and firms not primarily engaged in the provision of gas or electricity derived from fossil  
 11 fuel extraction or conventional hydroelectric development; and

12 (3) a ceiling of \$100,000 in tax savings per each year to any one person or firm."

13

14 **Section 99.** Section 15-32-106, MCA, is amended to read:

15 **"15-32-106. Procedure for obtaining benefit of deduction or credit.** ~~The department of revenue~~  
 16 ~~shall provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of  
 17 revenue shall approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes  
 18 energy conservation or uses a recognized nonfossil form of energy generation. The department of revenue  
 19 may refer a deduction ~~or credit~~ involving energy generation to the department of environmental quality for  
 20 its advice, and the department of environmental quality shall respond within 60 days. The department of  
 21 revenue may refer a deduction ~~or credit~~ involving energy conservation to the department of administration  
 22 for its advice, and the department of administration shall respond within 60 days. The department of  
 23 revenue may deny a deduction ~~or credit~~ that it finds to be impractical or ineffective."

24

25 **Section 100.** Section 15-32-303, MCA, is amended to read:

26 **"15-32-303. Deduction for purchase of Montana-produced organic or inorganic fertilizer.** In  
 27 addition to all other deductions from ~~adjusted gross individual income allowed in computing taxable income~~  
 28 ~~under Title 15, chapter 30, or from~~ gross corporate income allowed in computing net income under Title  
 29 15, chapter 31, part 1, a taxpayer may deduct expenditures for organic fertilizer and inorganic fertilizer  
 30 produced as a byproduct produced in Montana and used in Montana if the expenditure was not otherwise

1 deducted in computing taxable income."

2

3 **Section 101.** Section 15-32-402, MCA, is amended to read:

4 **"15-32-402. Commercial investment credit -- wind-generated electricity.** (1) ~~An individual, A~~  
5 ~~corporation, partnership, or small business corporation~~ as defined in ~~15-31-201~~ 15-31-101, that makes  
6 an investment of \$5,000 or more in certain depreciable property qualifying under section 38 of the Internal  
7 Revenue Code of 1954, as amended, for a commercial system located in Montana ~~which~~ that generates  
8 electricity by means of wind power is entitled to a tax credit against taxes imposed by ~~15-30-103 or~~  
9 ~~15-31-121~~ in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due  
10 as a consequence of taxable or net income produced by one of the following:

11 (a) manufacturing plants located in Montana that produce wind energy generating equipment;  
12 (b) a new business facility or the expanded portion of an existing business facility for which the  
13 wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or  
14 (c) the wind energy generating equipment in which the investment for which a credit is being  
15 claimed was made.

16 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection  
17 (1), eligible costs include only those expenditures that qualify under section 38 of the Internal Revenue  
18 Code of 1954, as amended, and that are associated with the purchase, installation, or upgrading of:

19 (a) generating equipment;  
20 (b) safety devices and storage components;  
21 (c) transmission lines necessary to connect with existing transmission facilities; and  
22 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no  
23 other transmission facilities are available.

24 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by  
25 the state or federal government for the system."

26

27 **Section 102.** Section 15-32-405, MCA, is amended to read:

28 **"15-32-405. Exclusion from other tax incentives.** If a credit is claimed for an investment pursuant  
29 to this part, no other state energy or investment tax credit, including but not limited to the tax credits  
30 allowed by ~~15-30-162~~ and 15-31-123 through 15-31-125, may be claimed for the investment. Property

1 tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed  
2 pursuant to this part."

3

4 **Section 103.** Section 15-32-502, MCA, is amended to read:

5 **"15-32-502. Definitions.** For purposes of this part, the following definitions apply:

6 (1) (a) "Certified expenditures" means those costs incurred for activities in direct support of  
7 exploration activity conducted at a specific exploration site for the purpose of determining the existence,  
8 location, extent, or quality of a mineral or coal deposit. The term includes:

9 (i) the costs of obtaining the approvals, permits, licenses, and certificates for an exploration  
10 activity referred to in 15-32-503;

11 (ii) direct labor costs and the cost of benefits for employees directly associated with work  
12 described in 15-32-503;

13 (iii) the cost of renting or leasing equipment from parties not affiliated with the person requesting  
14 and taking the credit;

15 (iv) the reasonable costs of owning, maintaining, and operating equipment;

16 (v) insurance and bond premiums associated with the activities set out in subsections (1)(a)(i)  
17 through (1)(a)(vii);

18 (vi) payments to consultants and independent contractors; or

19 (vii) the general expense of operating the person's business, including the costs of materials and  
20 supplies, if those expenses and costs are directly attributable to the work described in 15-32-503.

21 (b) The term does not include return on investment, insurance or bond premiums not covered  
22 under subsection (1)(a)(v), or any other expense that the person has not incurred to complete work  
23 described in 15-32-503.

24 (2) "Credit" means the exploration incentive credit for activities involving mineral and coal deposits  
25 authorized by this part.

26 (3) "Exploration activity data list" means, as applicable, a summary of work completed during the  
27 year that includes but is not limited to:

28 (a) the number of core or rotary drilling holes completed;

29 (b) chemical analytical data available; or

30 (c) aerial photographs or a topographic or geologic map showing the location of the drill holes,

1 sample locations, or the other exploration activities undertaken.

2 (4) "Geochemical methods" means geochemical data gathering methods, including the collection  
3 of soil, rock, water, air, vegetation, and similar samples and their chemical analyses.

4 (5) "Geophysical methods" means all geophysical data gathering methods used in mineral or coal  
5 exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote  
6 sensing measurements.

7 (6) "Mineral" means those substances defined as minerals by 82-4-303 and coal as defined by  
8 82-1-111.

9 (7) (a) "Mining operation" includes all operating and nonoperating activities related to a mineral  
10 deposit interest and may be composed of one or more mining properties.

11 (b) In determining whether mining properties are part of the same mining operation, the  
12 department may consider whether the operation, in conducting mining activities on several mining  
13 properties, uses common personnel, supply and maintenance facilities, mining-related treatment processes,  
14 storage facilities, roads, pipelines, transportation equipment, and mining techniques and technology and  
15 may also consider the extent to which the mineral deposit interest comprises a common mining property.

16 (8) "Person" means a ~~sole proprietorship, corporation, partnership, small business corporation as~~  
17 ~~defined in 15-31-201, or limited liability company as defined in 35-8-102~~ 15-31-101.

18 (9) "Tax year" means the calendar year."  
19

20 **Section 104.** Section 15-32-503, MCA, is amended to read:

21 **"15-32-503. Exploration incentive credit.** (1) The department shall grant to a person a credit  
22 against the person's tax liability under Title 15, chapter ~~30~~ ~~or~~ 31, for the certified expenditures of each  
23 of the following exploration activities that are performed on land in the state for the purpose of determining  
24 the existence, location, extent, or quality of a mineral or coal deposit, regardless of land ownership:

25 (a) surveying by geophysical or geochemical methods;

26 (b) drilling exploration holes;

27 (c) conducting underground exploration;

28 (d) surface trenching and bulk sampling; or

29 (e) performing other exploratory work, including aerial photographs, geological and geophysical  
30 logging, sample analysis, and metallurgical testing.

1           (2) (a) Except as provided in subsection (3), credit may not be granted under subsection (1) for  
2 exploration activity described in subsection (1) that occurs after the construction commencement date of  
3 a new mine.

4           (b) For the purposes of this subsection (2), "construction commencement date of a new mine"  
5 means the date no later than which all of the following have occurred:

6           (i) there has been issued to the owner or an agent of the owner permits, leases, title and other  
7 rights in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies  
8 that a reasonable and prudent person would consider adequate to commence construction of a mine in the  
9 expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the  
10 facilities will be obtained;

11           (ii) all approvals, permits, licenses, and certificates are in full force and effect and without any  
12 modification that might jeopardize the completion or continued construction of the mine; and

13           (iii) an order, judgment, decree, determination, or award of a court or administrative or regulatory  
14 agency enjoining, either temporarily or permanently, the construction or the continuation of construction  
15 of the mine is not in effect.

16           (3) In addition to the grant of a credit for a new mine under subsection (2), a credit may be  
17 granted under subsection (1) for exploration activity for a mine that had previously operated, that has  
18 ceased to operate, and for which all previous mining approvals, permits, licenses, and certificates that  
19 allowed the previous operation are no longer in effect. However, a credit may not be granted under  
20 subsection (1) for exploration activity that occurs after the mine reopening date. For the purposes of this  
21 subsection (3), "mine reopening date" means the date not later than which all of the following have  
22 occurred:

23           (a) there has been issued to the owner or an agent of the owner permits, leases, title and other  
24 rights in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies  
25 that a reasonable and prudent person would consider adequate to commence operation of the former mine  
26 in the expectation that all other approvals, permits, licenses, and certificates necessary for the completion  
27 of the facilities will be obtained;

28           (b) all approvals, permits, licenses, and certificates for the reopened mine are in full force and  
29 effect and without any modification that might jeopardize the reopening of the former mine; and

30           (c) an order, judgment, decree, determination, or award of a court or administrative or regulatory

1 agency enjoining, either temporarily or permanently, the reopening of the former mine is not in effect."

2

3 **Section 105.** Section 15-32-505, MCA, is amended to read:

4 **"15-32-505. Application of credit.** (1) In a tax year, a person may take a credit that was approved  
5 under 15-32-504 against taxes payable by the person. The credit may not exceed 50% of the person's  
6 tax liability under either Title 15, chapter 30 or 31, for the tax year that is related to production from the  
7 mining operation at which the exploration activities occurred.

8 (2) If a person applies the credit against the person's tax liability under subsection (1), the  
9 department shall disallow application of the credit under that provision unless the person files with the  
10 person's tax return an accounting of the person's exploration activities for each mining operation that is  
11 included in the tax return and as to which the credit is being applied. The accounting of exploration  
12 activities required by this subsection must be made on a form prescribed by the department. On the form,  
13 the person shall:

14 (a) identify the mining operations for which the credit is claimed; and

15 (b) set out the gross income attributable to the mining operations and other information about the  
16 mining operations that the department may require.

17 (3) A person may not apply the credit under this section if the application, when added to credits  
18 previously applied under this section, would exceed the total amount of the credits approved under  
19 15-32-504."

20

21 **Section 106.** Section 15-32-510, MCA, is amended to read:

22 **"15-32-510. Deduction for donation of exploration information.** (1) In addition to all other  
23 deductions from ~~adjusted gross individual income allowed in computing taxable income under Title 15,~~  
24 ~~chapter 30, or from~~ gross corporate income allowed in computing net income under Title 15, chapter 31,  
25 part 1, a taxpayer may deduct documented expenses for the donation of mineral exploration information  
26 generated as part of the certified expenditures. The information must be donated to the Montana tech  
27 foundation to reside as part of the Montana tech research library, and the documented expenses must be  
28 based on the cost of recreating the donated information.

29 (2) The Montana tech foundation has the right to limit information accepted and deductions  
30 granted to that exploration activity data that is needed as part of the Montana tech research library.

1 (3) A deduction under this section may not exceed 20% of the actual value of the data if a tax  
2 credit for the same exploration activity data is taken under this part."

3

4 **Section 107.** Section 15-32-602, MCA, is amended to read:

5 **"15-32-602. (Temporary) Amount and duration of credit -- how claimed.** (1) ~~An individual, A~~  
6 ~~corporation, partnership, or small business corporation,~~ as defined in ~~15-31-201~~ 15-31-101, may receive  
7 a credit against taxes imposed by Title 15, chapter ~~30~~ or 31, for investments in depreciable property to  
8 collect or process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer  
9 qualifies under 15-32-603.

10 (2) Subject to 15-32-603(3) and subsection (4) of this section, a taxpayer qualifying for a credit  
11 under 15-32-603 is entitled to claim a credit, as provided in subsection (3) of this section, for the cost of  
12 each item of property purchased to collect or process reclaimable material or to manufacture a product  
13 from reclaimed material only in the year in which the property was purchased. If qualifying property was  
14 purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer is entitled to a credit for  
15 tax year 1992.

16 (3) The amount of the credit that may be claimed under this section for investments in depreciable  
17 property is determined according to the following schedule:

18 (a) 25% of the cost of the property on the first \$250,000 invested;

19 (b) 15% of the cost of the property on the next \$250,000 invested; and

20 (c) 5% of the cost of the property on the next \$500,000 invested.

21 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

22 (Terminates December 31, 2001--sec. 1, Ch. 411, L. 1997.)"

23

24 **Section 108.** Section 15-32-603, MCA, is amended to read:

25 **"15-32-603. (Temporary) Credit for investment in property used to collect or process reclaimable**  
26 **material or to manufacture a product from reclaimed material.** (1) The following requirements must be met  
27 to be entitled to a tax credit for investment in property to collect or process reclaimable material or to  
28 manufacture a product from reclaimed material:

29 (a) The investment must be for depreciable property used primarily to collect or process  
30 reclaimable material or to manufacture a product from reclaimed material.

1 (b) (i) The taxpayer claiming a credit must be a person who, as an owner, including a contract  
2 purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a  
3 business that collects or processes reclaimable material or that manufactures a product from reclaimed  
4 material. For the purposes of this section, a business qualifies as a business that collects reclaimable  
5 material if it gathers reclaimable material for later sale or processing for another business that has as its  
6 primary business function the collection or processing of reclaimable material or the manufacture of a  
7 product from reclaimed material. The collection of reclaimable material may be a minor or nonprofit part  
8 of a business otherwise engaged in a retail trade or other business activity.

9 (ii) The taxpayer may but need not operate or conduct a business that collects or processes  
10 reclaimable material or manufactures a product from reclaimed material. If more than one person has an  
11 interest in a business with qualifying property, they may allocate all or any part of the investment cost  
12 among themselves and their successors or assigns.

13 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit,  
14 except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable  
15 material or manufacturing a product from reclaimed material during the tax year for which the credit is  
16 claimed.

17 (d) The reclaimed material collected, processed, or used to manufacture a product may not be an  
18 industrial waste generated by the person claiming the tax credit unless:

19 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed  
20 landfill; and

21 (ii) standard industrial practice has not generally included the reuse of the waste in the  
22 manufacturing process.

23 (2) A credit for depreciable property that treats soil contaminated by hazardous wastes applies  
24 only to property that treats contaminated soil and not to auxiliary property.

25 (3) A credit under this section may be claimed by a taxpayer for a business only if the qualifying  
26 property is purchased before January 1, 2002.

27 (4) The credit provided by this section is not in lieu of any depreciation or amortization deduction  
28 for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

29 (5) A tax credit otherwise allowable under this section that is not used by the taxpayer in the  
30 taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

1 (6) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by  
2 any tax credits allowed under this section.

3 ~~(7) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~  
4 ~~computed using the shareholder's pro rata share of the corporation's cost of investing in equipment~~  
5 ~~necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.~~  
6 ~~In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise~~  
7 ~~provided by law. (Terminates December 31, 2001--sec. 1, Ch. 411, L. 1997.)"~~

8

9 **Section 109.** Section 15-32-610, MCA, is amended to read:

10 **"15-32-610. (Temporary) Deduction for purchase of recycled material.** In addition to all other  
11 deductions from ~~adjusted gross individual income allowed in computing taxable income under Title 15,~~  
12 ~~chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31,~~  
13 part 1, a taxpayer may deduct an additional amount equal to 10% of the taxpayer's expenditures for the  
14 purchase of recycled material that was otherwise deductible by the taxpayer as business-related expense  
15 in Montana. (Terminates December 31, 2001--sec. 4, Ch. 542, L. 1995.)"

16

17 **Section 110.** Section 15-33-106, MCA, is amended to read:

18 **"15-33-106. Capital gains -- dividends exempted.** Any capital gains or dividend income realized  
19 by an individual or a corporation from an investment in an SBIC organized in accordance with this part is  
20 exempt from taxation under the provisions of Title 15, ~~chapters 30 and~~ chapter 31."

21

22 **Section 111.** Section 15-50-207, MCA, is amended to read:

23 **"15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees. (1)**  
24 The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit  
25 on the contractor's corporation license tax provided for in chapter 31 of this title ~~or on the contractor's~~  
26 ~~income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay~~  
27 ~~under the laws of the state.~~

28 (2) Personal property taxes and the fee in lieu of tax on buses, trucks having a manufacturer's  
29 rated capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration fee on  
30 light vehicles, as provided in 61-3-560 through 61-3-562, paid in Montana on any personal property or

1 vehicle of the contractor that is used in the business of the contractor and is located within this state may  
 2 be credited against the license fees required under this chapter. However, in computing the tax credit  
 3 allowed by this section against the contractor's corporation license tax or corporation income tax, the tax  
 4 credit against the license fees required under this chapter may not be considered as license fees paid for  
 5 the purpose of the corporation income tax or corporation license tax credit."

6

7 ~~Section 112.~~ Section 15-51-101, MCA, is amended to read:

8 ~~"15-51-101. Rate of tax -- electrical energy producers. (1) In Except as provided in subsections~~  
 9 ~~(2) and (3), in addition to the license tax now provided by law, each person or other organization now~~  
 10 ~~engaged in the generation, manufacture, or production of electricity and electrical energy in the state of~~  
 11 ~~Montana, either through waterpower or by any other means, for barter, sale, or exchange (and hereinafter~~  
 12 ~~referred to as the "producer") shall on or before the 30th day after each calendar quarter, with quarterly~~  
 13 ~~periods ending March 31, June 30, September 30, and December 31, render a statement to the~~  
 14 ~~department of revenue showing the gross amount, except for actual and necessary plant use, required to~~  
 15 ~~produce the energy of electricity and electrical energy produced, manufactured, or generated during the~~  
 16 ~~preceding calendar quarter without any deduction, and The person or organization shall pay a license tax~~  
 17 ~~thereon on the electrical energy in the sum of \$.0002 \$0.000252 per kilowatt hour on all such electricity~~  
 18 ~~and electrical energy generated, manufactured, or produced, measured at the place of production and as~~  
 19 ~~shown on the statement required in the manner and within the time hereinafter provided in this part.~~

20 ~~(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal~~  
 21 ~~Power Act, as amended by the Public Utilities Regulatory Policies Act of 1978, that exceeds \$0.0002 per~~  
 22 ~~kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases~~  
 23 ~~of a qualified facility's electricity or electrical energy if the wholesale purchases are made pursuant to a~~  
 24 ~~contract in effect on November 30, 2001. The wholesale purchaser shall reimburse the qualified facility~~  
 25 ~~on or before the date that the qualified facility is required to pay the tax imposed under subsection (1).~~

26 ~~(3) Notwithstanding the provisions of subsections (1) and (2), the tax rate on all electricity and~~  
 27 ~~electrical energy generated, manufactured, or produced from a facility or from an additional generating unit~~  
 28 ~~of a facility placed in service after [the effective date of this act was held] and prior to January 1, 2005,~~  
 29 ~~is as follows:~~

30 ~~(a) \$0.0002 per kilowatt hour commencing on the first day of commercial operation of the facility~~

1 ~~or of an additional generating unit of a facility through the end of the calendar quarter ending 5 years after~~  
 2 ~~the first day of commercial operation;~~

3 ~~—— (b) \$0.0008 per kilowatt hour for the next 5 years;~~

4 ~~—— (c) \$0.0016 per kilowatt hour for the next 5 years; and~~

5 ~~—— (d) \$0.00252 per kilowatt hour for succeeding years."~~

6

7 **Section 112.** Section 15-61-203, MCA, is amended to read:

8 **"15-61-203. Withdrawal of funds from account for purposes other than medical expenses, and**

9 **long-term care, or death.** (1) ~~An~~ Subject to the provisions of subsection (4), an employee or account holder

10 may withdraw money from the individual's medical care savings account for any purpose other than an

11 eligible medical expense or the long-term care of the employee or account holder or a dependent of the

12 employee or account holder only on the last business day of the account administrator's business year.

13 ~~Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the~~

14 ~~employee or account holder.~~

15 (2) ~~If~~ Except as provided in subsection (4), if the employee or account holder withdraws money

16 from the account other than for eligible medical expenses or long-term care or other than on the last

17 business day of the account administrator's business year, the administrator shall withhold from the

18 amount of the withdrawal and, on behalf of the employee or account holder, pay as a penalty to the

19 department of revenue an amount equal to 10% of the amount of the withdrawal. Payments made to the

20 department pursuant to this section must be deposited in the general fund. ~~Money withdrawn from an~~

21 ~~account pursuant to this subsection must be taxed as ordinary income of the employee or account holder.~~

22 (3) For the purposes of this section, "last business day of the account administrator's business

23 year", as applied to an account administrator who is also the account holder or an employee, means the

24 last weekday in December.

25 (4) Within 30 days of being furnished proof of the death of the employee or account holder, the

26 account administrator shall distribute the principal and accumulated interest or other income in the account

27 to the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided

28 in 72-6-223. A distribution made pursuant to this subsection is not subject to the penalty in subsection

29 (2)."

30

1           **Section 113.** Section 15-62-201, MCA, is amended to read:

2           **"15-62-201. Program requirements -- application -- establishment of account -- qualified and**  
3 **nonqualified withdrawal -- penalties.** (1) A person who wishes to deposit money into an account to pay  
4 the qualified higher education expenses of a designated beneficiary shall:

5           (a) complete an application on the form prescribed by the board that includes:

6           (i) the name, address, and social security number or employer identification number of the  
7 contributor;

8           (ii) the name, address, and social security number of the account owner if the account owner is  
9 not the contributor;

10          (iii) the name, address, and social security number of the designated beneficiary;

11          (iv) the certification relating to no excess contributions adopted by the board pursuant to  
12 20-25-902; and

13          (v) any other information required by the board;

14          (b) pay the one-time application fee established by the board;

15          (c) make the minimum contribution required by the board or by opening an account; and

16          (d) designate the type of account to be opened if more than one type of account is offered.

17          (2) A person shall make contributions to an opened account in cash.

18          (3) An account owner may withdraw all or part of the balance from an account under rules  
19 prescribed by the board to enable the board or program manager to determine if a withdrawal is a  
20 nonqualified withdrawal or a qualified withdrawal. The rules may require that:

21          (a) account owners seeking to make a qualified withdrawal or other withdrawal that is not a  
22 nonqualified withdrawal shall provide certifications, copies of bills for qualified higher education expenses,  
23 or other supporting material;

24          (b) qualified withdrawals from an account be made only by a check payable jointly to the  
25 designated beneficiary and a higher education institution; and

26          (c) withdrawals not meeting certain requirements be treated as nonqualified withdrawals by the  
27 program manager, and if these withdrawals are not nonqualified withdrawals, the account owner shall seek  
28 refunds of penalties directly from the board.

29          (4) If a nonqualified withdrawal is made from an account, an amount equal to 10% of the portion  
30 of the proposed withdrawal that would constitute income as determined in accordance with section 529

1 of the Internal Revenue Code, 26 U.S.C. 529, must be withheld as a penalty and paid to the board for use  
2 in operating and marketing the program and for state student financial aid. ~~A nonqualified withdrawal  
3 constitutes income for Montana purposes to the extent it was previously deducted from income in  
4 calculating Montana individual income taxes.~~

5 (5) The board, by rule, shall increase the percentage of the penalty prescribed in subsection (4)  
6 or change the basis of this penalty if the board determines that the amount of the penalty must be  
7 increased to constitute a minimum penalty for purposes of qualifying the program as a qualified state  
8 tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529.

9 (6) The board may decrease the percentage of the penalty prescribed in subsection (4) if:

10 (a) the penalty is greater than is required to constitute a minimum penalty for purposes of  
11 qualifying the program as a qualified state tuition program under section 529 of the Internal Revenue Code,  
12 26 U.S.C. 529; or

13 (b) the penalty, when combined with other revenue generated under this chapter, is producing  
14 more revenue than is required to cover the costs of operating and marketing the program and to recover  
15 any costs not previously recovered.

16 (7) If an account owner makes a nonqualified withdrawal and a penalty amount is not withheld  
17 pursuant to subsection (4) or the amount withheld was less than the amount required to be withheld under  
18 that subsection for nonqualified withdrawals, the account owner shall pay:

19 (a) the unpaid portion of the penalty to the board at the same time that the account owner files  
20 a federal ~~and state~~ income tax return for the taxable year of the withdrawal; or

21 (b) if the account owner does not file a return, the unpaid portion of the penalty on the due date  
22 for federal ~~and state~~ income tax returns, including any authorized extensions.

23 (8) Each account must be maintained separately from each other account under the program.

24 (9) Separate records and accounting must be maintained for each account for each designated  
25 beneficiary.

26 (10) A contributor to, account owner of, or designated beneficiary of an account may not direct  
27 the investment of any contributions to any account or the earnings generated by the account and may not  
28 pledge the interest of an account or use an interest in an account as security for a loan.

29 (11) If the board terminates the authority of a financial institution to hold accounts and accounts  
30 must be moved from that financial institution to another financial institution, the board shall select the

1 financial institution and type of investment to which the balance of the account is moved unless the  
 2 internal revenue service provides guidance stating that allowing the account owner to select among several  
 3 financial institutions that are then contractors would not cause a plan to cease to be a qualified state  
 4 tuition plan.

5 (12) If there is any distribution from an account to any person or for the benefit of any person  
 6 during a calendar year, the distribution must be reported to the internal revenue service and the account  
 7 owner or the designated beneficiary to the extent required by federal law.

8 (13) The financial institution shall provide statements to each account owner at least once each  
 9 year within 31 days after the 12-month period to which they relate. The statement must identify the  
 10 contributions made during a preceding 12-month period, the total contributions made through the end of  
 11 the period, the value of the account as of the end of this period, distributions made during this period, and  
 12 any other matters that the board requires be reported to the account owner.

13 (14) Statements and information returns relating to accounts must be prepared and filed to the  
 14 extent required by federal or state tax law or by administrative rule.

15 (15) A state or local government or organizations described in section 501(c)(3) of the Internal  
 16 Revenue Code, 26 U.S.C. 501(c)(3), may, without designating a designated beneficiary, open and become  
 17 the account owner of an account to fund scholarships for persons whose identity will be determined after  
 18 an account is opened."

19

20 **Section 114.** Section 15-62-204, MCA, is amended to read:

21 **"15-62-204. Higher education expenses --exemption from taxable income.** A person may in any  
 22 year deposit into an individual trust or savings account up to \$3,000 ~~that is deductible for tax purposes~~  
 23 ~~under 15-30-111(2)(f)~~ to pay the qualified higher education expenses for the benefit of a designated  
 24 beneficiary."

25

26 **Section 115.** Section 15-63-201, MCA, is amended to read:

27 **"15-63-201. Establishment of account.** A first-time home buyer who is a resident of this state  
 28 may establish a first-time home buyer savings account for the first-time home buyer, either individually or  
 29 jointly. An account holder may not contribute to the first-time home buyer savings account for a period  
 30 exceeding 10 years."

1

2           **Section 116.** Section 15-63-203, MCA, is amended to read:

3           **"15-63-203. Withdrawal of funds from account for purposes other than eligible costs for first-time**  
4 **home purchase.** (1) ~~An~~ Subject to the provisions of subsection (4), an account holder may withdraw  
5 money from the first-time home buyer's savings account for any purpose other than eligible costs for the  
6 first-time purchase of a single-family residence only on the last business day of the account administrator's  
7 business year. ~~Money withdrawn from an account pursuant to this subsection must be taxed as ordinary~~  
8 ~~income of the account holder.~~

9           (2) ~~If~~ Except as provided in subsection (4), if the account holder withdraws money from the  
10 account other than for eligible costs for the purchase of a single-family residence or other than on the last  
11 business day of the account administrator's business year, the account administrator shall withhold from  
12 the amount of the withdrawal and, on behalf of the account holder, pay as a penalty to the department  
13 an amount equal to 10% of the amount of the withdrawal. Payments made to the department pursuant  
14 to this section must be deposited in the general fund. ~~Money withdrawn from an account pursuant to this~~  
15 ~~subsection must be taxed as ordinary income of the account holder.~~

16           (3) For the purposes of this section, "last business day of the account administrator's business  
17 year", as applied to an account administrator who is also the account holder, means the last weekday in  
18 December.

19           (4) Within 30 days of being furnished proof of the death of the account holder, the account  
20 administrator shall distribute the principal and accumulated interest or other income in the account to the  
21 estate of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223. A  
22 distribution made pursuant to this subsection is not subject to the penalty in subsection (2)."

23

24           **Section 117.** Section 15-70-221, MCA, is amended to read:

25           **"15-70-221. (Temporary) Refund or credit authorized.** (1) A person who purchases and uses any  
26 gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in  
27 gasohol, for operating stationary gasoline engines used off the public highways and streets, or for any  
28 commercial use other than operating vehicles upon any of the public highways or streets of this state is  
29 allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not  
30 exceed the tax paid or to be paid to the state. Except as provided in subsection (5), a refund is not allowed

1 for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

2 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
3 refund of the amount of tax paid.

4 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
5 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
6 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor  
7 may not have declared the accounts of the purchaser worthless more than once during a 3-year period,  
8 and the distributor must have claimed those accounts as bad debts for federal ~~or state~~ income tax or state  
9 corporation license tax purposes.

10 (b) If a credit has been granted under this subsection (3), any amount collected on the accounts  
11 that were declared worthless must be reported to the department and the tax due must be prorated on  
12 the collected amount and must be paid to the department.

13 (c) The department may require a distributor to submit periodic reports listing accounts that are  
14 delinquent for 90 days or more.

15 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
16 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
17 unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit  
18 or refund must be made upon completion of the information reports required under 15-70-209 and  
19 presentation to the department of proof of delivery outside Montana as it may by rule require.

20 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund  
21 of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
22 tax has been paid. (Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)

23 **15-70-221. (Effective on occurrence of contingency) Refund or credit authorized.** (1) A person  
24 who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for  
25 denaturing alcohol to be used in gasohol, for operating stationary gasoline engines used off the public  
26 highways and streets, or for any commercial use other than operating vehicles upon any of the public  
27 highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the  
28 gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in  
29 subsection (5), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department  
30 of transportation by 67-1-301.

1 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
2 refund of the amount of tax so paid.

3 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
4 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
5 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor  
6 may not have declared the accounts of the purchaser worthless more than once during a 3-year period,  
7 and the distributor must have claimed those accounts as bad debts for federal ~~or state~~ income tax or state  
8 corporation license tax purposes.

9 (b) If a credit has been granted under this subsection (3), any amount collected on the accounts  
10 that were declared worthless must be reported to the department and the tax due must be prorated on  
11 the collected amount and must be paid to the department.

12 (c) The department may require a distributor to submit periodic reports listing accounts that are  
13 delinquent for 90 days or more.

14 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
15 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
16 unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit  
17 or refund must be made upon completion of the information reports required under 15-70-209 and  
18 presentation to the department of proof of delivery outside Montana as it may by rule require.

19 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund  
20 of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
21 tax has been paid."

22

23 **Section 118.** Section 15-70-356, MCA, is amended to read:

24 **"15-70-356. Refund or credit authorized.** (1) A person who purchases and uses any special fuel  
25 on which the Montana special fuel license tax has been paid for operating stationary special fuel engines  
26 used off the public highways and streets or for any commercial use other than operating vehicles upon any  
27 of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or  
28 indirectly on the special fuel used. The refund may not exceed the tax paid or to be paid to the state.

29 (2) (a) The United States government, the state of Montana, any other state, or any county,  
30 incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special

1 fuel regardless of the use of the special fuel.

2 (b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic  
3 school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

4 (ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been  
5 accredited pursuant to 20-7-102.

6 (3) A distributor who pays the special fuel license tax to this state erroneously is allowed a credit  
7 or refund of the amount of tax paid.

8 (4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
9 special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration  
10 from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The  
11 distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year  
12 period and claimed those accounts as bad debts for federal ~~or state~~ income tax or state corporation license  
13 tax purposes.

14 (b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts  
15 declared worthless must be reported to the department and the tax due must be prorated on the collected  
16 amount and must be paid to the department.

17 (c) The department may require a distributor to submit periodic reports listing accounts that are  
18 delinquent for 90 days or more.

19 (5) A person who purchases and exports for sale, use, or consumption outside Montana any  
20 special fuel on which the Montana special fuel tax has been paid is entitled to a credit or refund of the  
21 amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is  
22 destined. Upon completion of the reports required under 15-70-351, the department shall authorize the  
23 credit or refund."

24

25 **Section 119.** Section 16-1-306, MCA, is amended to read:

26 **"16-1-306. Revenue to be paid to state treasurer.** Except as provided in [section 63], 16-1-404,  
27 16-1-405, 16-1-406, ~~and~~ 16-1-411, and 16-2-301, all fees, charges, taxes, and revenue collected by or  
28 under authority of the department must, in accordance with the provisions of 15-1-501, be deposited to  
29 the credit of the state general fund. Sales tax and use tax revenue must be deposited according to [section  
30 63]."

1

2           **Section 120.** Section 16-1-411, MCA, is amended to read:

3           **"16-1-411. Tax on wine and hard cider -- penalty and interest.** (1) (a) A tax of 27 cents per liter  
4 is imposed on table wine, except hard cider, imported by a table wine distributor or the department.

5           (b) A tax of 3.7 cents per liter is imposed on hard cider imported by a table wine distributor or the  
6 department.

7           (2) The tax imposed in subsection (1) must be paid by the table wine distributor by the 15th day  
8 of the month following sale of the table wine or hard cider from the table wine distributor's warehouse.  
9 Failure to file a tax return or failure to pay the tax required by this section subjects the table wine  
10 distributor to the penalties and interest provided for in 15-1-216.

11           (3) The tax paid by a table wine distributor in accordance with subsection (2) must, in accordance  
12 with the provisions of 15-1-501, be distributed as follows:

13           (a) 59% to the state general fund;

14           (b) 31% to the state special revenue fund to the credit of the department of public health and  
15 human services for the treatment, rehabilitation, and prevention of alcoholism;

16           (c) 5% is statutorily appropriated, as provided in 17-7-502, to the department for allocation to  
17 the counties, based on population, for the purpose established in 16-1-404; and

18           (d) 5% is statutorily appropriated, as provided in 17-7-502, to the department for allocation to  
19 the cities and towns, based on population, for the purpose established in 16-1-405.

20           (4) ~~The~~ In addition to the sales tax and use tax imposed under [section 2], the tax computed and  
21 paid in accordance with this section is the only tax imposed by the state or any of its subdivisions,  
22 including cities and towns.

23           (5) For purposes of this section, the following definitions apply:

24           (a) "Based on population" means:

25           (i) for counties, the direct proportion that the population of each county bears to the total  
26 population of all counties as shown in the latest official federal census as adjusted by the most recent  
27 population estimates published by the U.S. bureau of the census as provided in 16-1-406; and

28           (ii) for cities, the distribution described in 16-1-406; and

29           (b) "Table wine" has the meaning ~~assigned~~ provided in 16-1-106, but does not include hard cider."

30

1           **Section 121.** Section 16-2-301, MCA, is amended to read:

2           **"16-2-301. Retail selling price on table wine -- tax on certain table wine.** (1) (a) The retail selling  
3 price at which table wine is sold at an agency liquor store is as determined by the agent.

4           (b) The retail selling price at which table wine is sold pursuant to subsection (1)(a) may not include  
5 the sales tax or use tax imposed under [section 2]. The sales tax or use tax must be collected as provided  
6 in [sections 1 through 63] and must be deposited as provided in [section 63].

7           (2) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table  
8 wine sold by a table wine distributor to an agent as described in subsection (1). This additional tax must  
9 be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The  
10 department shall deposit the tax paid under this section in the general fund.

11           (3) For the purposes of this section, "table wine" does not include hard cider.

12           (4) The sales tax and use tax collected under [sections 1 through 63] are not considered to be  
13 collected under this section."

14

15           **Section 122.** Section 16-11-110, MCA, is amended to read:

16           **"16-11-110. Signature alternatives for electronically filed returns.** For purposes of Title 15,  
17 chapters 1, 2, 6 through 10, 15 through 18, 23, 24, ~~30~~ 31 through 33, 35 through 38, 44, 50, 51, 53,  
18 59 through 61, and 65, and Title 16, chapter 11, the director of revenue, and for the purposes of Title  
19 15, chapter 70, the director of the department of transportation, may prescribe, by rule, methods for  
20 signing, subscribing, or verifying electronically filed tax returns. Returns electronically filed in accordance  
21 with the methods adopted by rule have the same validity and consequences as physical forms signed by  
22 a taxpayer."

23

24           **Section 123.** Section 17-6-316, MCA, is amended to read:

25           **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to  
26 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems,  
27 sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location  
28 or creation of a business in Montana. The loan must be made to a local government that will create the  
29 necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government  
30 receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must

1 provide for repayment of the loan from the entity authorized to charge fees for the use of the services of  
2 the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions  
3 under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

4 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied  
5 that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any  
6 credits received pursuant to subsection (3) of this section must be returned to the state.

7 (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2)  
8 and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter ~~30~~ 31,  
9 for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit  
10 claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or  
11 carried back for 3 tax years."

12

13 **Section 124.** Section 17-7-111, MCA, is amended to read:

14 **"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and**  
15 **contents.** (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the  
16 state need information that is consistent and accurate. Necessary information includes detailed  
17 disbursements by fund type for each agency and program for the appropriate time period,  
18 recommendations for creating a balanced budget, and recommended disbursements and estimated receipts  
19 by fund type and fund category.

20 (b) Subject to the requirements of this chapter, the budget director and the legislative fiscal  
21 analyst shall by agreement:

22 (i) establish necessary standards, formats, and other matters necessary to share information  
23 between the agencies and to ensure that information is consistent and accurate for the preparation of the  
24 state's budget; and

25 (ii) provide for the collection and provision of budgetary and financial information that is in addition  
26 to or different from the information otherwise required to be provided pursuant to this section.

27 (2) In the preparation of a state budget, the budget director shall, not later than the date specified  
28 in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation  
29 of budget estimates by the budget director. These forms must be prescribed by the budget director to  
30 procure the information required by subsection (3). The forms must be submitted to the budget director

1 by the date provided in 17-7-112(2) or the agency's budget is subject to preparation based upon estimates  
2 as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the  
3 provisions of this section or the instructions given for completing the forms.

4 (3) The agency budget request must set forth a balanced financial plan for the agency completing  
5 the forms for each fiscal year of the ensuing biennium. The plan must consist of:

6 (a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds  
7 that transfer profits to the general fund or to an account subject to appropriation for the current base  
8 budget expenditures, including statutory appropriations, and for each present law adjustment and new  
9 proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE)  
10 and the budget, showing a balance between the total proposed disbursements and the total anticipated  
11 receipts, together with the other means of financing the budget for each fiscal year of the ensuing  
12 biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year  
13 in progress;

14 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each  
15 accounting entity within each fund for the current biennium and estimated for the subsequent biennium;

16 (c) a statement of the agency mission and a statement of goals and objectives for each program  
17 of the agency. The goals and objectives must include, in a concise form, sufficient specific information and  
18 quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency  
19 and its programs and to allow a determination, at some future date, on whether the agency has succeeded  
20 in attaining its goals and objectives.

21 (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated  
22 FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by  
23 program;

24 (e) actual disbursements for the completed fiscal year of the current biennium, estimated  
25 disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium,  
26 by disbursement category;

27 (f) a reference, for each program included in the agency budget request, identifying whether the  
28 program may be operated at the discretion of the agency or whether the agency is required by federal or  
29 state law to operate, administer, or manage the program;

30 (g) for only agencies with more than 20 FTE, a plan to reduce the proposed budget to 85% of the

1 current base budget. The plan must include:

2 (i) a prioritized list of services that would be eliminated or reduced;

3 (ii) for each service included in the prioritized list, the savings that would result from the elimination  
4 or reduction; and

5 (iii) the consequences or impacts of the proposed elimination or reduction of each service.

6 (h) other information the budget director feels is necessary for the preparation of a budget.

7 (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with  
8 17-7-112:

9 (a) detailed recommendations for the state long-range building program. Each recommendation  
10 must be presented by institution, agency, or branch, by funding source, with a description of each  
11 proposed project.

12 (b) the proposed pay plan schedule for all executive branch employees at the program level by  
13 fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan  
14 schedule under this subsection is not an unfair labor practice under 39-31-401.

15 (c) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter  
16 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation  
17 and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment  
18 program under Title 90, chapter 6, part 7.

19 (5) The board of regents shall submit, with its budget request for each university unit in  
20 accordance with 17-7-112, a report on the university system bonded indebtedness and related finances  
21 as provided in this subsection (5). The report must include the following information for each year of the  
22 biennium, contrasted with the same information for the last completed fiscal year and the fiscal year in  
23 progress:

24 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

25 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each  
26 outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum  
27 legal funding requirements for each bond indenture; and

28 (c) a schedule showing the total funds available from each bond indenture and its associated  
29 accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue  
30 source and project for each year of the current and ensuing bienniums.

1           ~~(6) The budget director may not obtain copies of individual income tax records protected under~~  
 2 ~~15-30-303. The department of revenue shall make individual income tax data available by removing~~  
 3 ~~names, addresses, occupations, social security numbers, and taxpayer identification numbers. The~~  
 4 ~~department of revenue may not alter the data in any other way. The data is subject to the same~~  
 5 ~~restrictions on disclosure as are individual income tax returns."~~

6

7           **Section 125.** Section 19-2-1004, MCA, is amended to read:

8           **"19-2-1004. Exemption from ~~taxes and~~ legal process.** Except as provided in 19-2-907 and  
 9 19-2-909, the right of a person to any benefit or payment from the retirement systems and the money in  
 10 the pension trust funds is not:

11           (1) subject to execution, garnishment, attachment, or any other process; or

12           ~~(2) subject to state, county, or municipal taxes except for:~~

13           ~~—— (a) a benefit or annuity received in excess of \$3,600 or adjusted by an amount determined~~  
 14 ~~pursuant to 15-30-111(2)(c)(ii); or~~

15           ~~—— (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985,~~  
 16 ~~as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or~~

17           ~~—— (3)(2) assignable except as specifically provided in this chapter."~~

18

19           **Section 126.** Section 19-18-612, MCA, is amended to read:

20           **"19-18-612. Protection of benefits from legal process ~~and taxation -- nonassignability.~~** ~~(4)~~ Except  
 21 for execution or withholding for the payment of child support or for the payment of spousal support for  
 22 a spouse or former spouse who is the custodial parent of the child, payments made or to be made under  
 23 this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled  
 24 to a pension may not assign the right, and the association and trustees may not recognize any assignment  
 25 or pay over any sum assigned.

26           ~~(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received~~  
 27 ~~under this part is exempt from state, county, and municipal taxation."~~

28

29           **Section 127.** Section 19-19-504, MCA, is amended to read:

30           **"19-19-504. Protection of benefits from legal process ~~and taxation.~~** ~~(4)~~ Except for execution or

1 withholding for the payment of child support or for the payment of spousal support for a spouse or former  
 2 spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to  
 3 execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law  
 4 and are unassignable except as specifically provided in 19-19-505.

5 ~~(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) of benefits received~~  
 6 ~~under this part is exempt from state, county, and municipal taxation."~~

7

8 **Section 128.** Section 19-20-706, MCA, is amended to read:

9 **"19-20-706. Exemption from ~~taxation and~~ legal process.** Except as provided in 19-20-305 and  
 10 19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the  
 11 provisions of the retirement system and the accumulated contributions and cash and securities in the  
 12 various funds of the retirement system are:

13 ~~(1) exempted from any state, county, or municipal tax of the state of Montana except for:~~

14 ~~—— (a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined~~  
 15 ~~pursuant to 15-30-111(2)(c)(ii); or~~

16 ~~—— (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer~~  
 17 ~~after June 30, 1985, as provided in 19-20-602;~~

18 ~~—— (2)(1) not subject to execution, garnishment, attachment by trustee process or otherwise, in law~~  
 19 ~~or equity, or any other process; and~~

20 ~~(3)(2) unassignable except as specifically provided in this chapter."~~

21

22 **Section 129.** Section 19-21-212, MCA, is amended to read:

23 **"19-21-212. Exemption from ~~taxation, legal process, and~~ assessments.** Except for execution or  
 24 withholding for the payment of child support or for the payment of spousal support for a spouse or former  
 25 spouse who is the custodial parent of the child, contracts, benefits, and contributions under the optional  
 26 retirement program and the earnings on the contributions are:

27 ~~(1) except for a retirement allowance received in excess of \$3,600 or adjusted by an amount~~  
 28 ~~determined pursuant to 15-30-111(2)(c)(ii), exempt from any state, county, or municipal tax;~~

29 ~~—— (2)(1) not subject to execution, garnishment, attachment, or other process;~~

30 ~~(3)(2) not covered or assessable by an insurance guaranty association; and~~

1           ~~(4)~~(3) unassignable except as specifically provided in the contracts."

2

3           **Section 130.** Section 19-50-101, MCA, is amended to read:

4           **"19-50-101. Definitions.** For the purposes of this chapter, unless a different meaning is plainly  
5 implied by the context, the following definitions apply:

6           (1) "Administrator" or "board" means the public employees' retirement board created in  
7 2-15-1009 or an appropriate officer of a political subdivision.

8           (2) "Deferred compensation" means that income ~~which~~ that an employee may legally defer in a  
9 deferred compensation plan established under this chapter pursuant to the rulings of the internal revenue  
10 service and ~~which~~ that, while invested, is exempt from ~~state and~~ federal income tax on the employee's  
11 contribution and on the interest, dividends, and capital gains until ultimately distributed to the employee.

12           (3) "Eligible deferred compensation plan" means a plan meeting the requirements of section 457  
13 of the Internal Revenue Code.

14           (4) "Employee" means any person, including independent contractors and elected officials,  
15 receiving compensation from the state or a political subdivision for performing services.

16           (5) "Fund" means the state deferred compensation investment account.

17           (6) "Participant" means an employee enrolled in the plan.

18           (7) "Political subdivision" means any city, town, county, or other political subdivision of the state  
19 of Montana."

20

21           **Section 131.** Section 20-25-504, MCA, is amended to read:

22           **"20-25-504. Evidence as to domiciliary intent -- changes in status.** (1) To determine the domicile  
23 of a person, the units of the system shall apply the ~~following rules~~ rule:

24           ~~(a) Nonpayment of Montana income tax by a person whose income is sufficient to be taxed is~~  
25 ~~highly persuasive evidence of non-Montana domicile.~~

26 ~~—— (b) A~~ that a person ~~must intend~~ intends to establish a domicile in Montana.

27           (2) After registration, a student's classification for tuition and fee purposes remains unchanged  
28 in the absence of evidence to the contrary. A written statement of the evidence ~~shall~~ must be filed with  
29 the registering authority of the unit. Changes in classification ~~shall~~ must be in writing signed by the  
30 registering authority and ~~shall~~ take effect at the student's next registration.

1 (3) A minor ~~shall qualify~~ qualifies for a change in status only if ~~his~~ the minor's parents or the  
 2 parent having legal custody or, if neither parent has legal custody, the parent with whom ~~he~~ the minor  
 3 customarily resides or legal guardian or person having legal custody completes the requirements for  
 4 establishing domicile ~~heretofore~~ as set forth in this section.

5 (4) It is presumed that a minor or adult registered as a full-time student at any unit is not qualified  
 6 for a change in ~~his or his~~ the student's or the student's dependent's classification for tuition and fee  
 7 purposes unless ~~he~~ the student completes 12 continuous months of residence while not attending a unit  
 8 of the system or other institution of higher learning or while serving in the armed forces.

9 (5) Any student whose request for classification as a resident student is denied has the right of  
 10 appeal to the executive secretary of the Montana university system. Immediately upon rejection and at the  
 11 request of the student, the registering authority shall forward a copy of ~~his~~ the authority's decision and  
 12 a complete file on the student to the executive secretary. The executive secretary may accept other  
 13 evidence of residence from either the student, the registering authority, or other interested persons. Within  
 14 30 days of the receipt of the decision of the registering authority, the executive secretary shall determine  
 15 the resident status of the student and shall notify the student and the registering authority of ~~his~~ the  
 16 decision. The executive secretary's decision may be appealed to the regents if the regents agree to  
 17 entertain ~~such an~~ the appeal."

18

19 **Section 132.** Section 33-17-407, MCA, is amended to read:

20 **"33-17-407. Nonresident insurance producer to pay taxes -- annual report required.** (1) ~~A~~ If a  
 21 nonresident insurance producer is a corporation, as defined in 15-31-101, the producer is subject to  
 22 ~~personal income, business income, or corporate license~~ or corporate income taxes for all income earned  
 23 on insurance policies issued to cover subjects or risks residing, located, or to be performed in Montana and  
 24 written within the boundaries of this state.

25 (2) A nonresident insurance producer that is a corporation, as defined in 15-31-101, shall file  
 26 annually a ~~Montana income~~ tax return as required in Title 15, chapter 31."

27

28 **Section 133.** Section 33-27-101, MCA, is amended to read:

29 **"33-27-101. Short title.** Sections ~~45-30-107, 45-30-127,~~ 15-31-117, 15-31-118, and this  
 30 chapter may be cited as the "Independent Liability Fund Act"."

1

2           **Section 134.** Section 33-27-102, MCA, is amended to read:

3           "**33-27-102. Purpose.** The purpose of ~~15-30-107, 15-30-127,~~ 15-31-117, 15-31-118, and this  
4 chapter is to create a means by which small businesses operating in Montana may establish independent  
5 liability funds to set aside assets or make investments to meet any liability claims that might be made  
6 against the small businesses by third parties."

7

8           **Section 135.** Section 33-27-103, MCA, is amended to read:

9           "**33-27-103. Definitions.** As used in ~~15-30-107, 15-30-127,~~ 15-31-117, 15-31-118, and this  
10 chapter, the following definitions apply:

11           (1) "Fiscal year" means the 12-month period used by a particular small business in preparing and  
12 filing its Montana ~~individual income tax,~~ corporate license tax, or corporate income tax return.

13           (2) "Independent liability fund" means a collection of money, assets, and investments that has  
14 been set aside by a small business to meet the needs of any liability claims, except workers' compensation  
15 claims, brought against it by third parties.

16           (3) "Liability claim" means any legal or extralegal action by a third party asserting a right to  
17 compensation for a wrong done to it by a small business with an independent liability fund.

18           (4) "Small business" means any commercial or nonprofit enterprise qualified to do business in the  
19 state and qualified as a small business under the criteria established by the federal small business  
20 administration on April 20, 1987.

21           (5) "Third party" means a person other than an employee or the management of a small business  
22 or of a subsidiary or closely related enterprise of a small business."

23

24           **Section 136.** Section 37-4-104, MCA, is amended to read:

25           "**37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by**  
26 **personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased  
27 or a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not  
28 licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist  
29 or the personal representative of a disabled dentist may contract with a dentist to manage the dental  
30 practice at an establishment where dental operations, oral surgery, or dental services are provided.

1 (2) A personal representative may not:

2 (a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product,  
3 process, or activity as it relates to the delivery of dental care;

4 (b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment  
5 over all qualitative and quantitative aspects of the delivery of dental care;

6 (c) allow any person other than a dentist to supervise and control the selection, compensation,  
7 terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental  
8 practice;

9 (d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by  
10 a dentist or the dentist's practice; or

11 (e) limit or define the scope of services offered by the dentist.

12 (3) For the purposes of this section:

13 (a) "clinical" means having a significant relationship, whether real or potential, direct or indirect,  
14 to the actual rendering or outcome of dental care, the practice of dentistry, or the quality of dental care  
15 being rendered to a patient;

16 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled"~~  
17 in 15-30-111 means unable to engage in any substantial gainful activity by reason of any medically  
18 determined physical or mental impairment lasting or expected to last at least 12 months; and

19 (c) "personal representative" of the estate of a deceased dentist has the same meaning as  
20 provided ~~for the term~~ in 72-1-103.

21 (4) The 12-month period provided for in subsection (1) begins when:

22 (a) the personal representative of the estate of a deceased dentist files a verified copy of the death  
23 certificate of the deceased with the department; or

24 (b) the personal representative of the disabled dentist files a verified copy of a document signed  
25 by a licensed physician that attests to the dentist's disability."

26

27 **Section 137.** Section 39-51-1109, MCA, is amended to read:

28 **"39-51-1109. Tax appeals -- procedure.** (1) A decision, determination, or redetermination of the  
29 department involving an employer-employee relationship or the charging of benefit payments to employers  
30 is final unless an interested party entitled to notification submits a written appeal of the decision,

1 determination, or redetermination. The appeal must be made in the same manner as provided in  
2 39-71-415.

3 (2) A decision, determination, or redetermination involving contribution liability, contribution rate,  
4 application for refund, subject wages, or other tax-related issues must be issued by the department of  
5 revenue as provided in Title 15, chapter 1, part 2, ~~and 15-30-257, if applicable.~~ The decision is final unless  
6 an interested party entitled to notification follows the uniform dispute review procedures as prescribed in  
7 15-1-211 ~~and 15-30-257, if applicable.~~"

8

9 **Section 138.** Section 39-51-1301, MCA, is amended to read:

10 **"39-51-1301. Penalty and interest on past-due reports and taxes.** (1) Failure to file reports and  
11 payments in a timely manner, as required under 39-51-603, 39-51-1103, and 39-51-1125, may subject  
12 an employer to penalty and interest, as provided by 15-1-216.

13 (2) There is an account in the federal special revenue fund. Penalties and interest collected for  
14 unemployment insurance obligations ~~are distributed as provided in 15-30-250 and~~ must be deposited in  
15 ~~that~~ the account. Money deposited in ~~that~~ the account and appropriated to the department or transferred  
16 by the department to its delegate, pursuant to 39-51-301(5), may only be used by the department or its  
17 delegate to administer this chapter, including the detection and collection of unpaid taxes and  
18 overpayments of benefits to the extent that federal grant revenue is less than amounts appropriated for  
19 this purpose. Money in the account not appropriated for these purposes must be transferred by the  
20 department to the unemployment insurance trust fund at the end of each fiscal year.

21 (3) All money accruing to the unemployment insurance trust fund from interest and penalties  
22 collected on past-due unemployment insurance taxes must be used solely for the payment of  
23 unemployment insurance benefits and may not be used for any other purpose."

24

25 **Section 139.** Section 39-51-2402, MCA, is amended to read:

26 **"39-51-2402. Initial determination -- redetermination.** (1) A representative designated by the  
27 department and referred to as a deputy shall promptly examine the claim and, on the basis of the facts  
28 the deputy has found, the deputy shall determine whether or not the claim is valid. If the claim is valid,  
29 the deputy ~~will~~ shall determine the week the benefits commence, the weekly benefit amount payable, and  
30 the maximum benefit amount. The deputy may refer the claim or any question involved in the claim to an

1 appeals referee who shall make the decision on the claim in accordance with the procedure prescribed in  
 2 39-51-2403. With respect to a determination, redetermination, or appeal by a claimant involving wages,  
 3 the issue must be resolved in accordance with procedures for unemployment insurance benefit claimant  
 4 appeals as prescribed in 15-2-302 and ~~15-30-257~~. The deputy shall promptly notify the claimant and any  
 5 other interested party of the decision and the reasons for reaching the decision.

6 (2) The deputy may for good cause reconsider the decision and shall promptly notify the claimant  
 7 and other interested parties of the amended decision and the reasons for the decision.

8 (3) A determination or redetermination of an initial or additional claim may not be made under this  
 9 section unless 5 days' notice of the time and place of the claimant's interview for examination of the claim  
 10 is mailed to each interested party.

11 (4) A determination or redetermination is final unless an interested party entitled to notice of the  
 12 decision applies for reconsideration of the determination or appeals the decision within 10 days after the  
 13 notification was mailed to the interested party's last-known address. The 10-day period may be extended  
 14 for good cause.

15 (5) Except as provided in subsection (6), a redetermination of a claim for benefits may not be  
 16 made after 2 years from the date of the initial determination.

17 (6) A redetermination may be made within 3 years from the date of the initial determination of a  
 18 claim if the initial determination was based on a false claim, misrepresentation, or failure to disclose a  
 19 material fact by the claimant or the employer."  
 20

21 **Section 140.** Section 40-4-202, MCA, is amended to read:

22 **"40-4-202. Division of property.** (1) In a proceeding for dissolution of a marriage, legal separation,  
 23 or division of property following a decree of dissolution of marriage or legal separation by a court ~~which~~  
 24 that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to divide the property, the  
 25 court, without regard to marital misconduct, shall, and in a proceeding for legal separation may, finally  
 26 equitably apportion between the parties the property and assets belonging to either or both, however and  
 27 whenever acquired and whether the title ~~thereto~~ to the property or assets is in the name of the husband  
 28 or wife or both. In making apportionment, the court shall consider the duration of the marriage and prior  
 29 marriage of either party; the age, health, station, occupation, amount and sources of income, vocational  
 30 skills, employability, estate, liabilities, and needs of each of the parties; custodial provisions; whether the

1 apportionment is in lieu of or in addition to maintenance; and the opportunity of each for future acquisition  
 2 of capital assets and income. The court shall also consider the contribution or dissipation of value of the  
 3 respective estates and the contribution of a spouse as a homemaker or to the family unit. In dividing  
 4 property acquired prior to the marriage; property acquired by gift, bequest, devise, or descent; property  
 5 acquired in exchange for property acquired before the marriage or in exchange for property acquired by  
 6 gift, bequest, devise, or descent; the increased value of property acquired prior to marriage; and property  
 7 acquired by a spouse after a decree of legal separation, the court shall consider those contributions of the  
 8 other spouse to the marriage, including:

9 (a) the nonmonetary contribution of a homemaker;

10 (b) the extent to which ~~such~~ the contributions have facilitated the maintenance of this property;

11 and

12 (c) whether or not the property division serves as an alternative to maintenance arrangements.

13 (2) In a proceeding, the court may protect and promote the best interests of the children by setting  
 14 aside a portion of the jointly and separately held estates of the parties in a separate fund or trust for the  
 15 support, maintenance, education, and general welfare of any minor, dependent, or incompetent children  
 16 of the parties.

17 (3) Each spouse is considered to have a common ownership in marital property that vests  
 18 immediately preceding the entry of the decree of dissolution or declaration of invalidity. The extent of the  
 19 vested interest must be determined and made final by the court pursuant to this section.

20 (4) The division and apportionment of marital property caused by or incident to a decree of  
 21 dissolution, a decree of legal separation, or a declaration of invalidity is not a sale, exchange, transfer, or  
 22 disposition of or dealing in property but is a division of the common ownership of the parties for purposes  
 23 of:

24 (a) the property laws of this state; and

25 ~~(b) the income tax laws of this state; and~~

26 ~~(c)~~(b) the federal income tax laws.

27 (5) Premarital agreements must be enforced as provided in Title 40, chapter 2, part 6."  
 28

29 **Section 141.** Section 40-5-206, MCA, is amended to read:

30 **"40-5-206. Central unit for information and administration -- cooperation enjoined -- availability**

1 **of records.** (1) The department shall establish a central unit to serve as a registry for the receipt of  
2 information, for answering interstate inquiries concerning deserting parents, for receiving and answering  
3 requests for information made by consumer reporting agencies under 40-5-261, to coordinate and  
4 supervise departmental activities in relation to deserting parents, and to ensure effective cooperation with  
5 law enforcement agencies.

6 (2) During or in anticipation of a delinquency, enforcement, or modification proceeding, a  
7 proceeding to establish child or medical support or paternity, an attempt to locate an obligor, or a  
8 contested case, the department or other IV-D agency may request and, notwithstanding any statute  
9 making the information confidential, all state, county, and city agencies, officers, and employees shall  
10 provide on request information, if known, concerning an obligor or obligee, including:

- 11 (a) name;
- 12 (b) residential and mailing addresses;
- 13 (c) date of birth;
- 14 (d) social security number;
- 15 (e) wages or other income;
- 16 (f) number of dependents claimed for ~~state and~~ federal income tax withholding purposes;
- 17 (g) name and address of employer;
- 18 (h) state and local tax and revenue records;
- 19 (i) penal corrections records;
- 20 (j) address, location, and description of any real property or titled personal property; and
- 21 (k) any other asset in which the obligor or obligee may have an interest, including its location and  
22 the extent, nature, and value of the interest.

23 (3) Upon service of an administrative subpoena from the department or another IV-D agency  
24 during or in anticipation of a delinquency, enforcement, or modification proceeding, a proceeding to  
25 establish child or medical support or paternity, an attempt to locate an obligor, or a contested case, public  
26 utilities, cable television companies, and financial institutions shall, with regard to an obligor or obligee,  
27 provide the department or the requesting IV-D agency with the name and address of the obligor or obligee,  
28 the name and address of the obligor's or obligee's employer, and any information on the obligor's or  
29 obligee's assets and liabilities contained in customer records.

30 (4) Any information obtained by the department during the course of a child support investigation

1 that is confidential at the source must be treated by the department as confidential and must be  
 2 safeguarded accordingly. Absent a specific statutory prohibition to the contrary and subject to subsection  
 3 (6), the department may release information obtained from nonconfidential public and private sources,  
 4 including information regarding support orders, judgments, and payment records.

5 (5) Absent a specific statutory prohibition or rule to the contrary and subject to subsection (6),  
 6 use or disclosure of information obtained by the department from confidential sources or any information  
 7 maintained by the department in its records, including the names, addresses, and social security numbers  
 8 of obligors and obligees, is limited to:

9 (a) purposes directly related to the provision of services under this chapter;

10 (b) county attorneys and courts having jurisdiction in support and abandonment proceedings and  
 11 agencies in other states engaged in the enforcement of support of minor children under the federal Social  
 12 Security Act; and

13 (c) any other use permitted or required by the federal Social Security Act.

14 (6) The department may not disclose information regarding the whereabouts of a party to another  
 15 party if:

16 (a) the department received notice that a protective order with respect to the party has been  
 17 entered against the other party; or

18 (b) the department has reason to believe that the release of information may result in physical or  
 19 emotional harm to the party.

20 (7) A person or private entity that discloses information to the department in compliance with this  
 21 section is not liable to the obligor or obligee for negligent disclosure.

22 (8) An entity failing to comply with this section is subject to the contempt authority of the  
 23 department under 40-5-226."

24

25 **Section 142.** Section 40-5-818, MCA, is amended to read:

26 **"40-5-818. Nonexclusion -- nondiscrimination by health benefit plan.** A health benefit plan may  
 27 not deny or limit enrollment of an obligated parent's child or discriminate against a child because:

28 (1) the child is not claimed as a dependent on the obligated parent's ~~state~~ federal income tax  
 29 return or considered as a dependent for tax purposes;

30 (2) the child was born out of wedlock;

1 (3) the child does not reside with the obligated parent;

2 (4) the child does not reside in the health plan's service area. A plan that provides medical care  
3 at particular locations or geographic areas shall also provide comparable benefits for a child whose  
4 residence or location is elsewhere.

5 (5) the natural child of the obligated parent has a preexisting condition, unless the plan does not  
6 provide for enrollment or provides only for limited enrollment of children with preexisting conditions."

7

8 **Section 143.** Section 53-2-211, MCA, is amended to read:

9 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the  
10 unemployment compensation program of the department of labor and industry all information contained  
11 in its files and records pertaining to eligibility of persons for medicaid, FAIM financial assistance, as defined  
12 in 53-2-902, and food stamps. The information made available must include information on the amount  
13 and source of an applicant's income. The information received from the department must be used by the  
14 department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits  
15 under the unemployment compensation program of the state and for no other purpose.

16 (2) The department shall make available to the unemployment compensation and the workers'  
17 compensation programs of the department of labor and industry all information contained in its files and  
18 records pertaining to eligibility of persons for low-income energy assistance, and weatherization. The  
19 information made available must include information on the amount and source of an applicant's income.  
20 The information received from the department must be used by the department of labor and industry for  
21 the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation  
22 and workers' compensation programs of the state and for no other purpose.

23 (3) (a) Subject to federal restrictions, the department may request information from the  
24 department of labor and industry pertaining to unemployment, workers' compensation, and occupational  
25 disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for  
26 unemployment, workers' compensation, or occupational benefits, the department of labor and industry  
27 may request information ~~from the department of revenue~~ pertaining to income ~~as provided in~~  
28 ~~15-30-303(8)(c)~~ from any state or federal agency.

29 (b) The information must be used by the department for the purpose of determining fraud, abuse,  
30 or eligibility for benefits.

1 (4) The department may, to the extent permitted by federal law, make available to an agency of  
2 the state or to any other organization information contained in its files and records pertaining to the  
3 eligibility of persons for medicaid, FAIM financial assistance, as defined in 53-2-902, food stamps,  
4 low-income energy assistance, weatherization, or other public assistance. The information may be  
5 disclosed only for purposes directly connected with the administration of a program or purpose of the  
6 agency and may not be used by the agency for any other purpose."

7

8 **Section 144.** Section 53-2-503, MCA, is amended to read:

9 **"53-2-503. Information made available to department of justice.** (1) The department of public  
10 health and human services and its local units shall make available to the department of justice information  
11 contained in the public assistance files pertinent to the investigations and judicial actions described in  
12 53-2-501.

13 (2) Every other state, county, or other governmental agency shall make available to the agents  
14 or attorneys of the department of justice all records, files, memoranda, forms, or other papers relating to  
15 public assistance matters, ~~including income tax returns filed with the department of revenue.~~"

16

17 **Section 145.** Section 67-11-303, MCA, is amended to read:

18 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate  
19 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the  
20 terms that it may determine, payable out of any revenue of the authority, including revenue derived from:

21 (a) an airport or air navigation facility or facilities;

22 (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;

23 (c) grants or contributions from the federal government; or

24 (d) other sources.

25 (2) The bonds may be issued by resolution of the authority, without an election and without any  
26 limitation of amount, except that bonds may not be issued at any time if the total amount of principal and  
27 interest to become due in any year on the bonds and on any ~~then-outstanding~~ then-outstanding bonds for  
28 which revenue from the same source or sources are pledged exceeds the amount of revenue to be received  
29 in that year as estimated in the resolution authorizing the issuance of the bonds. The authority shall take  
30 all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any

1 are pledged, sufficient to make the revenue from the pledged source in the year at least equal to the  
2 amount of principal and interest due in that year.

3 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.  
4 Except as otherwise provided in this section, any bonds issued pursuant to this chapter by an authority  
5 may be payable as to principal and interest solely from revenue of the authority and must state on their  
6 face the applicable limitations or restrictions regarding the source from which the principal and interest are  
7 payable.

8 ~~(4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are~~  
9 ~~declared to be issued for an essential public and governmental purpose by a political subdivision within the~~  
10 ~~meaning of 15-30-111(2)(a).~~

11 ~~——(5)(4)~~ For the security of bonds, the authority or municipality may by resolution make and enter  
12 into any covenant, agreement, or indenture and may exercise any additional powers authorized to be  
13 exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time  
14 to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any  
15 ~~revenues~~ revenue referred to in this chapter, prior to the payment of current costs of operation and  
16 maintenance of the facilities.

17 ~~(6)(5)~~ Subject to the conditions stated in this subsection, the governing body of any municipality  
18 having a population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the  
19 municipality or by an authority in which the municipality is included, may by resolution covenant that in  
20 the event that at any time all revenue, including taxes, appropriated and collected for the bonds is  
21 insufficient to pay principal or interest then due, it will levy a general tax upon all of the taxable property  
22 in the municipality for the payment of the deficiency. The governing body may further covenant that at  
23 any time a deficiency is likely to occur within 1 year for the payment of principal and interest due on such  
24 bonds, it will levy a general tax upon all the taxable property in the municipality for the payment of the  
25 deficiency, and the taxes are not subject to any limitation of rate or amount applicable to other municipal  
26 taxes but are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the  
27 event that more than one municipality having a population in excess of 10,000 is included in an authority  
28 issuing bonds pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for  
29 the payment of, or in anticipation of, a deficiency in the revenue appropriated for the bonds in a manner  
30 that the municipalities may determine. The resolution must state the principal amount and purpose of the

1 bonds and the substance of the covenant respecting deficiencies. A resolution may not be effective until  
 2 the question of its approval has been submitted to the qualified electors of the municipality at a special  
 3 election called for that purpose by the governing body of the municipality and a majority of the electors  
 4 voting on the question have voted in favor of the resolution. The special election must be held in  
 5 conjunction with a regular or primary election. The notice and conduct of the election is governed, to the  
 6 extent applicable, as provided for municipal general obligation bonds in Title 7, chapter 7, part 42, for an  
 7 election called by cities and towns and as provided for county general obligation bonds in Title 7, chapter  
 8 7, part 22, for an election called by counties. If a majority of the electors voting on the issue vote against  
 9 approval of the resolution, the municipality may not make the covenant or levy a tax for the payment of  
 10 deficiencies pursuant to this section, but the municipality or authority may issue bonds under this chapter  
 11 payable solely from the sources referred to in subsection (1)."

12

13 **Section 146.** Section 80-12-211, MCA, is amended to read:

14 **"80-12-211. ~~Income tax deduction~~ Deduction for land sale to beginning farmers.** A landowner who  
 15 sells land consisting of 80 acres or more to a beginning farmer at 9% or less interest on a long-term  
 16 contract is entitled to a reduction in ~~his~~ the landowner's taxable income in an amount equal to 100% of  
 17 any income or capital gain, or both, realized and otherwise subject to ~~state~~ corporation license or  
 18 corporation income taxes from the sale, up to a maximum of \$50,000, provided the transaction is  
 19 approved by the authority for this purpose."

20

21 **Section 147.** Section 87-2-102, MCA, is amended to read:

22 **"87-2-102. Resident defined.** In determining a resident for the purpose of issuing resident fishing,  
 23 hunting, and trapping licenses, the following provisions apply:

24 (1) (a) A member of the regular armed forces of the United States, a member's dependent, as  
 25 defined in ~~15-30-113~~ subsection (1)(b), who resides in the member's Montana household, or a member  
 26 of the armed forces of a foreign government attached to the regular armed forces of the United States is  
 27 considered a resident for the purposes of this chapter if:

28 ~~(a)~~(i) the member was a resident of Montana under the provisions of subsection (4) at the time  
 29 the member entered the armed forces and continues to meet residency criteria of subsections (4)(b)  
 30 through ~~(4)(e)~~(4)(d); or

1           ~~(b)~~(ii) the member is currently stationed in and assigned to active duty in Montana, has resided  
 2 in Montana for at least 30 days, and presents official assignment orders and proof of completion of a  
 3 hunter safety course approved by the department, as provided in 87-2-105, or a certificate verifying the  
 4 successful completion of a hunter safety course in any state or province. The 30-day residence  
 5 requirement is waived in time of war. Reassignment to another state, United States territory, or country  
 6 terminates Montana residency for purposes of this section, except that a reassigned member continues  
 7 to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana  
 8 and the member continues to meet the residency criteria of subsections (4)(b) through ~~(4)(e)~~(4)(d). The  
 9 designation of Montana by a member of the regular armed forces as a "home of record" or "home of  
 10 residence" in that member's armed forces records does not determine the member's residency for  
 11 purposes of this section.

12           **(b) For purposes of this subsection (1):**

13           **(i) "dependent" means any of the following individuals over half of whose support, for the calendar**  
 14 **year in which the license is requested to be issued, was received from a resident as described in**  
 15 **subsections (2) through (8):**

16           **(A) a son or daughter of the resident or a descendant of either;**

17           **(B) a stepson or stepdaughter of the resident;**

18           **(C) a brother, sister, stepbrother, or stepsister of the resident;**

19           **(D) the father or mother of the resident or an ancestor of either;**

20           **(E) a stepfather or stepmother of the resident;**

21           **(F) a son or daughter of a brother or sister of the resident;**

22           **(G) a brother or sister of the father or mother of the resident;**

23           **(H) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of**  
 24 **the resident;**

25           **(I) an individual who, for the calendar year in which the license is requested to be issued, has as**  
 26 **the individual's principal place of abode the home of the resident and is a member of the resident's**  
 27 **household; or**

28           **(J) an individual who:**

29           **(I) is a descendant of a brother or sister of the father or mother of the resident;**

30           **(II) for the preceding 12 months received institutional care required by reason of a physical or**

1 mental disability; and

2 (III) before receiving the institutional care, was a member of the same household as the resident;

3 (ii) the terms "brother" and "sister" include a brother or sister by the half blood; and

4 (iii) in determining whether any of the relationships specified in this section exist, a legally adopted  
5 child of an individual is treated as a child of the individual by blood.

6 (2) A person who has physically resided in Montana as the person's principal or primary home or  
7 place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before  
8 making application for any license is eligible to receive hunting, fishing, and trapping licenses. As used in  
9 this section, a vacant lot or a premises used solely for business purposes is not considered a principal or  
10 primary home or place of abode.

11 (3) A person who obtains residency under subsection (2) may continue to be a resident for  
12 purposes of this section by physically residing in Montana as the person's principal or primary home or  
13 place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to  
14 making application for any resident hunting, fishing, or trapping license.

15 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following  
16 criteria to be considered a resident for purposes of this section:

17 (a) the person's principal or primary home or place of abode is in Montana;

18 ~~(b) the person files Montana state income tax returns as a resident if required to file;~~

19 ~~(c)~~(b) the person licenses and titles in Montana as required by law any vehicles that the person  
20 owns and operates in Montana;

21 ~~(d)~~(c) the person does not possess or apply for any resident hunting, fishing, or trapping licenses  
22 from another state or country or exercise resident hunting, fishing, or trapping privileges in another state  
23 or country; and

24 ~~(e)~~(d) if the person registers to vote, the person registers only in Montana.

25 (5) A student who is enrolled full-time in a post-secondary educational institution out of state and  
26 who would qualify for Montana resident tuition or who otherwise meets the residence requirements of  
27 subsection (2) or (3) is considered a resident for purposes of this section.

28 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30  
29 days within Montana, considered a resident for the purpose of making application for a fishing license as  
30 long as the person remains an enrollee in a Montana camp.

1 (7) A person who does not reside in Montana but who meets all of the following requirements is  
2 a resident for purposes of obtaining hunting and fishing licenses:

3 (a) The person's principal employment is within this state and the income from this employment  
4 is the principal source of the applicant's family income.

5 ~~(b) The person is required to pay and has paid Montana income tax in a timely manner and proper  
6 amount.~~

7 ~~(c)~~(b) The person has been employed within this state on a full-time basis for at least 12  
8 consecutive months immediately preceding each application.

9 ~~(d)~~(c) The person's state of residency has laws substantially similar to this subsection (7).

10 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's  
11 parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for  
12 purposes of this section. The minor is considered a resident for purposes of this section regardless of  
13 whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent  
14 or guardian of the minor may be required to show proof of the parental, guardianship, or custodial  
15 relationship to the minor.

16 (9) A person is not considered a resident for the purposes of this section if the person:

17 (a) claims residence in any other state or country for any purpose; or

18 (b) is an absentee property owner paying property tax on property in Montana.

19 (10) A license agent is not considered a representative of the state for the purpose of determining  
20 a license applicant's residence status."

21

22 **Section 148.** Section 87-2-105, MCA, is amended to read:

23 **"87-2-105. (Temporary) Safety instruction required.** (1) A hunting license may not be issued to  
24 a resident person under ~~the age of~~ 18 years of age unless the person authorized to issue the license  
25 receives proof of competency as provided by this section.

26 (2) A hunting license may not be issued to a nonresident person under ~~the age of~~ 18 years of age  
27 unless the person authorized to issue the license receives proof of competency, as provided in this section,  
28 or a certificate verifying that the nonresident has successfully completed a course in the safe handling of  
29 firearms in any state or province.

30 (3) A hunting license may not be issued to a member of the regular armed forces of the United

1 States or to a member of the armed forces of a foreign government attached to the armed forces of the  
2 United States who is assigned to active duty in Montana and who is otherwise considered a resident under  
3 87-2-102(1) or to a member's dependents, as defined in ~~45-30-113~~ 87-2-102(1), who reside in the  
4 member's Montana household, unless the person authorized to issue the license receives proof of  
5 competency, as provided in this section, or a certificate verifying that the member or dependent has  
6 successfully completed a hunter safety course in any state or province.

7 (4) A bow and arrow license may not be issued to a resident or nonresident unless the person  
8 authorized to issue the license receives an archery license issued for a prior hunting season or receives  
9 proof of completion of a bowhunter education course from the national bowhunter education foundation.  
10 Neither the department nor the license agent is required to provide records of past archery license  
11 purchases. As part of the department's bow and arrow licensing procedures, the department shall notify  
12 the public regarding bowhunter education requirements.

13 (5) The department shall provide for a course of instruction in the safe handling of firearms and  
14 for that purpose may cooperate with any reputable organization having as one of its objectives the  
15 promotion of safety in the handling of firearms. The department may designate as an instructor any person  
16 it finds to be competent to give instructions in the handling of firearms. A person appointed shall give the  
17 course of instruction and shall issue a certificate of competency in the safe handling of firearms to a  
18 person successfully completing the course.

19 (6) The department shall provide for a course of instruction from the national bowhunter education  
20 foundation and for that purpose may cooperate with any reputable organization having as one of its  
21 objectives the promotion of safety in the handling of bow hunting tackle. The department may designate  
22 as an instructor any person it finds to be competent to give the national bowhunter education foundation  
23 instruction. A person appointed shall give the course of instruction and shall issue a certificate of  
24 completion from the national bowhunter education foundation to any person successfully completing the  
25 course.

26 (7) The department may adopt rules regarding how a person authorized to issue a license  
27 determines proof of competency.

28 **87-2-105. (Effective July 1, 2001) Safety instruction required.** (1) A hunting license may not be  
29 issued to a resident person who is under 18 years of age unless the person authorized to issue the license  
30 receives a certificate of completion from the Montana youth hunter safety and education course

1 established in subsection (5).

2 (2) A hunting license may not be issued to a nonresident person who is under 18 years of age  
3 unless the person authorized to issue the license receives a certificate of completion from the Montana  
4 youth hunter safety and education course established in subsection (5) or a certificate verifying that the  
5 nonresident has successfully completed a hunter safety course in any state or province.

6 (3) A hunting license may not be issued to a member of the regular armed forces of the United  
7 States or to a member of the armed forces of a foreign government attached to the armed forces of the  
8 United States who is assigned to active duty in Montana and who is otherwise considered a resident under  
9 87-2-102(1) or to a member's dependents, as defined in ~~15-30-113~~ 87-2-102(1), who reside in the  
10 member's Montana household, unless the person authorized to issue the license receives proof of  
11 completion of a hunter safety course approved by the department or a certificate verifying that the  
12 member or dependent has successfully completed a hunter safety course in any state or province.

13 (4) A bow and arrow license may not be issued to a resident or nonresident unless the person  
14 authorized to issue the license receives an archery license issued for a prior hunting season or receives  
15 proof of completion of a bowhunter education course from the national bowhunter education foundation.  
16 Neither the department nor the license agent is required to provide records of past archery license  
17 purchases. As part of the department's bow and arrow licensing procedures, the department shall notify  
18 the public regarding bowhunter education requirements.

19 (5) The department shall provide for a youth hunter safety and education course that includes  
20 instruction in the safe handling of firearms and for that purpose may cooperate with any reputable  
21 organization having as one of its objectives the promotion of hunter safety and education. The department  
22 may designate as an instructor any person it finds to be competent to give instructions to youth in hunter  
23 safety and education, including the handling of firearms. A person appointed shall give the course of  
24 instruction and shall issue a certificate of completion from Montana's youth hunter safety and education  
25 course to a person successfully completing the course.

26 (6) The department shall provide for a course of instruction from the national bowhunter education  
27 foundation and for that purpose may cooperate with any reputable organization having as one of its  
28 objectives the promotion of safety in the handling of bow hunting tackle. The department may designate  
29 as an instructor any person it finds to be competent to give the national bowhunter education foundation  
30 instruction. A person appointed shall give the course of instruction and shall issue a certificate of

1 completion from the national bowhunter education foundation to any person successfully completing the  
2 course.

3 (7) The department may develop an adult hunter education course.

4 (8) The department may adopt rules regarding how a person authorized to issue a license  
5 determines proof of completion or achievement."

6

7 **Section 149.** Section 87-5-121, MCA, is amended to read:

8 **"87-5-121. Nongame wildlife account.** (1) There is a nongame wildlife account in the state special  
9 revenue fund provided for in 17-2-102.

10 (2) All money ~~collected under 15-30-150~~ appropriated to or otherwise deposited in the account  
11 and all interest earned by the ~~fund~~ account before being expended under this section must be deposited  
12 in the account.

13 (3) Money in the account must be used by the department, upon the approval of the commission  
14 as determined under 87-5-122, to provide adequate funding for:

15 (a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104;  
16 and

17 (b) any management programs for nongame wildlife approved by the legislature under 87-5-105  
18 as species or subspecies in need of management.

19 (4) The money is available to the department in the same manner as provided in 87-1-601, ~~except~~  
20 ~~that money collected under 15-30-150 may not be used:~~

21 ~~— (a) for the purchase of any real property; or~~

22 ~~— (b) in such a way as to interfere with the production on or management of private property."~~

23

24 **Section 150.** Section 90-8-202, MCA, is amended to read:

25 **"90-8-202. Designation of qualified Montana capital companies -- designation of qualified Montana**  
26 **small business investment capital company -- tax credit.** (1) The department shall designate as:

27 (a) qualified Montana capital companies those certified companies that have been privately  
28 capitalized at a minimum level of \$200,000; or

29 (b) a qualified Montana small business investment capital company a certified Montana small  
30 business investment capital company once it has been privately capitalized at a minimum level of

1 \$500,000.

2 (2) A certified company seeking designation as a qualified Montana capital company or as a  
3 qualified Montana small business investment capital company shall make written application to the  
4 department on forms provided by the department. The application must contain the information required  
5 by 90-8-204 and other information that the department requires.

6 (3) (a) The total amount of tax credits authorized for a single qualified capital company or a  
7 qualified Montana small business investment capital company may not exceed \$1,500,000, except that  
8 a qualified Montana small business investment capital company must receive all remaining tax credits  
9 under this section available as of January 1, 1991. In the event the capitalization of a qualified capital  
10 company is later increased, the company may apply for authorization of additional tax credits within the  
11 foregoing limitation.

12 (b) The total credits authorized for all companies may not exceed a total of \$1 million prior to June  
13 30, 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may  
14 not exceed \$1 million plus any portion of the \$1 million available for authorization before June 30, 1985,  
15 that is allocated to qualified companies. The total credits authorized for all companies between July 1,  
16 1987, and June 30, 1989, may not exceed \$3 million plus any portion of the credits available for  
17 authorization before June 30, 1987, that is allocated to qualified companies. The total credits authorized  
18 for all companies between July 1, 1989, and June 30, 1991, may not exceed \$3 million plus any portion  
19 of the credits available for authorization before June 30, 1989, that is allocated to qualified companies.

20 (4) (a) Before January 1, 1991, credits must be allocated to qualified companies in the order that  
21 completed applications for designation as qualified capital companies are received by the department, and  
22 the department shall certify to each company its appropriate allocation.

23 (b) All tax credits allowed under subsection (3) that are not allocated as of January 1, 1991, must  
24 be allocated to a qualified Montana small business investment capital company, and the department shall  
25 certify the allocation to the company.

26 (c) If the legislature provides additional tax credits under this chapter after June 30, 1991, or if  
27 tax credits become available by reversion to the department by a capital company or by a qualified  
28 Montana small business investment capital company, those additional or reverted tax credits must be  
29 allocated by the department to qualified capital companies or to a qualified Montana small business  
30 investment capital company in accordance with this chapter and the rules of the department.

1 (5) Investors in a qualified Montana capital company or in a qualified Montana small business  
2 investment capital company are entitled to the tax credits provided for in subsection (6). Funds invested  
3 in a certified company prior to designation as a qualified Montana capital company or as a qualified  
4 Montana small business investment capital company may, at the discretion of the investor, be placed in  
5 an escrow account in a Montana financial institution pending designation of the company as a qualified  
6 Montana capital company or as a qualified Montana small business investment capital company.

7 (6) Subject to the provisions of subsections (3) and (9), ~~an individual, small business corporation,~~  
8 ~~partnership, a trust, a decedent's estate, or corporate a taxpayer~~ that is a corporation, as defined in  
9 15-31-101, that makes a capital investment in a qualified Montana capital company or a qualified Montana  
10 small business investment capital company is entitled to a tax credit equal to 50% of the investment, up  
11 to a maximum credit for investments in all qualified Montana capital companies of \$150,000 per taxpayer,  
12 except that, as applied to a qualified small business investment capital company, the maximum tax credit  
13 is \$250,000 per taxpayer and the tax credit limitation relating to a capital investment in a qualified  
14 Montana small business investment capital company must be in addition to any other tax credit limitation  
15 in this section. The credit may be taken against the tax liability imposed on the investor pursuant to Title  
16 15, chapter ~~30, 31, or 35. The credit for investments by a small business corporation defined in~~  
17 ~~15-31-201 or a partnership may be claimed by the small business corporation shareholders or the partners.~~

18 (7) The tax credit allowed under subsection (6) ~~is to~~ must be credited against the taxpayer's  
19 corporation license tax or corporation income tax liability or coal severance tax liability for the taxable year  
20 in which the investment in a qualified Montana capital company or a qualified Montana small business  
21 investment capital company is made. If the amount of the tax credit exceeds the taxpayer's tax liability  
22 for the taxable year, the amount of the credit ~~which that~~ exceeds the tax liability may be carried back or  
23 carried forward in the following manner:

24 (a) If the sum of the amount of credit for the current taxable year plus the amount of credit, if any,  
25 carried forward from a previous taxable year exceeds the taxpayer's tax liability for the current taxable  
26 year, the excess must be carried back as a credit to the 3 preceding taxable years and, if the full credit  
27 remains unused, carried forward as a credit to the 15 succeeding taxable years.

28 (b) The amount of unused credit must be used to offset the entire tax liability of each of the 18  
29 taxable years, beginning with the earliest and commencing to the next succeeding year until the credit is  
30 exhausted.

1 (8) The tax credit provided for in this section is available only to those taxpayers who invest in  
 2 a qualified Montana capital company within 4 years of July 1, 1987, or in a qualified Montana small  
 3 business investment capital company within 4 years of July 1, 1991.

4 (9) (a) ~~An individual, small business corporation, partnership, or~~ A corporate taxpayer that is a  
 5 corporation, as defined in 15-31-101, who and that obtains the tax credit allowed under subsection (6)  
 6 may not obtain credits in excess of the limits contained in subsection (6) by making investments as more  
 7 than one entity.

8 (b) ~~A partner or shareholder in a small business corporation may not obtain more than \$150,000,~~  
 9 ~~or not more than \$250,000 in the case of a qualified Montana small business investment capital company,~~  
 10 ~~in credits as an individual and as the partnership or small business corporation. A corporate taxpayer that~~  
 11 is a corporation, as defined in 15-31-101, and that obtains the maximum credits allowed under this  
 12 subsection (9)(b) may not obtain additional credits through investments by wholly owned subsidiaries or  
 13 affiliates. ~~An individual, small business corporation, partnership, or~~ A corporate taxpayer that is a  
 14 corporation, as defined in 15-31-101, who and that obtains the tax credit allowed under subsection (6)  
 15 may not claim deduction under the provisions of Title 15, chapter ~~30~~ 31, for donation of stock in a  
 16 qualified Montana small business investment capital company."  
 17

18 NEW SECTION. Section 151. Repealer. Sections 7-34-2416, 15-1-230, 15-30-101, 15-30-102,  
 19 15-30-103, 15-30-105, 15-30-106, 15-30-107, 15-30-110, 15-30-111, 15-30-112, 15-30-113,  
 20 15-30-114, 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-124,  
 21 15-30-125, 15-30-126, 15-30-127, 15-30-128, 15-30-129, 15-30-131, 15-30-132, 15-30-133,  
 22 15-30-134, 15-30-135, 15-30-136, 15-30-137, 15-30-138, 15-30-141, 15-30-142, 15-30-143,  
 23 15-30-144, 15-30-145, 15-30-146, 15-30-147, 15-30-148, 15-30-149, 15-30-150, 15-30-151,  
 24 15-30-152, 15-30-153, 15-30-155, 15-30-156, 15-30-157, 15-30-161, 15-30-162, 15-30-163,  
 25 15-30-164, 15-30-165, 15-30-166, 15-30-167, 15-30-168, 15-30-171, 15-30-172, 15-30-173,  
 26 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, 15-30-179, 15-30-180, 15-30-186,  
 27 15-30-188, 15-30-189, 15-30-190, 15-30-191, 15-30-192, 15-30-195, 15-30-201, 15-30-202,  
 28 15-30-203, 15-30-204, 15-30-205, 15-30-206, 15-30-207, 15-30-208, 15-30-209, 15-30-210,  
 29 15-30-215, 15-30-241, 15-30-246, 15-30-247, 15-30-248, 15-30-249, 15-30-250, 15-30-251,  
 30 15-30-255, 15-30-256, 15-30-257, 15-30-301, 15-30-302, 15-30-303, 15-30-304, 15-30-305,

1 15-30-306, 15-30-307, 15-30-310, 15-30-311, 15-30-312, 15-30-313, 15-30-314, 15-30-316,  
2 15-30-321, 15-30-323, 15-30-324, 15-30-331, 15-31-136, 15-31-162, 15-32-109, 15-32-115,  
3 15-32-201, 15-32-202, 15-32-203, 15-61-202, 15-63-202, and 19-17-407, MCA, are repealed.

4

5 **NEW SECTION. Section 152. Transition.** (1) Notwithstanding the provisions of [section 39], each  
6 person engaging in business prior to [the applicability date of sections 1 through 63] must have applied  
7 for and received, prior to [the applicability date of sections 1 through 63], a valid seller's permit described  
8 in [section 39].

9 (2) Notwithstanding the provisions of [section 8], any person engaging in business prior to [the  
10 applicability date of sections 1 through 63] may apply for and receive, prior to [the applicability date of  
11 sections 1 through 63], a valid nontaxable transaction certificate described in [section 8].

12 (3) The department of revenue shall adopt rules to provide procedures for receiving and processing  
13 an application for a seller's permit and for providing a seller's permit and a nontaxable transaction  
14 certificate prior to [the applicability date of sections 1 through 63].

15

16 **NEW SECTION. Section 153. Codification instruction.** (1) [Sections 1 through 63] are intended  
17 to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through  
18 63].

19 (2) [Section 64] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and  
20 the provisions of Title 15, chapter 6 apply to [section 64].

21

22 **NEW SECTION. Section 154. Saving clause.** [This act] does not affect rights and duties that  
23 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
24 act].

25

26 **NEW SECTION. Section 155. Severability.** If a part of [this act] is invalid, all valid parts that are  
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
28 applications, the part remains in effect in all valid applications that are severable from the invalid  
29 applications.

30

1           NEW SECTION. Section 156. Coordination instruction. (1) If [LC 646] is approved by the  
2 electorate, then;

3           (A) the 4% sales tax and use tax rate in [section 2] and [section 62] is changed to 5% on January  
4 1, 2003;

5           (B) [SECTION 64(1)(A)] IS AMENDED TO READ: "SUBJECT TO THE EXEMPTION OF MARKET VALUE SPECIFICALLY  
6 PROVIDED FOR CLASS ELEVEN PROPERTY IN 15-6-201(1), ALL RESIDENTIAL PROPERTY, INCLUDING TRAILERS,  
7 MANUFACTURED HOMES, OR MOBILE HOMES, AND APPURTENANT LAND NOT EXCEEDING 5 ACRES THAT IS OCCUPIED BY  
8 THE OWNER FOR AT LEAST 7 MONTHS DURING THE CALENDAR YEAR;";

9           (C) [SECTION 64(1)(B)] IS AMENDED TO READ: "SUBJECT TO THE EXEMPTION OF MARKET VALUE SPECIFICALLY  
10 PROVIDED FOR CLASS ELEVEN PROPERTY IN 15-6-201(1), THE FIRST \$100,000 OR LESS OF THE TAXABLE MARKET VALUE  
11 OF ANY IMPROVEMENT ON REAL PROPERTY DESCRIBED IN SUBSECTION (1), INCLUDING TRAILERS, MANUFACTURED HOMES,  
12 OR MOBILE HOMES, AND APPURTENANT LAND NOT EXCEEDING 5 ACRES OWNED AND ACTUALLY OCCUPIED FOR AT LEAST  
13 7 MONTHS A YEAR AS THE PRIMARY RESIDENTIAL DWELLING OF ANY PERSON WHOSE TOTAL INCOME FROM ALL SOURCES,  
14 INCLUDING NET BUSINESS INCOME AND OTHERWISE TAX-EXEMPT INCOME OF ALL TYPES BUT NOT INCLUDING SOCIAL  
15 SECURITY INCOME PAID DIRECTLY TO A NURSING HOME, IS NOT MORE THAN \$15,000 FOR A SINGLE PERSON OR \$20,000  
16 FOR A MARRIED COUPLE OR A HEAD OF HOUSEHOLD, AS ADJUSTED ACCORDING TO SUBSECTION (2). FOR THE PURPOSES  
17 OF THIS SUBSECTION (1)(B), NET BUSINESS INCOME IS GROSS INCOME LESS ORDINARY OPERATING EXPENSES BEFORE  
18 DEDUCTING DEPRECIATION OR DEPLETION ALLOWANCE, OR BOTH.";

19           (D) [SECTION 83], AMENDING 15-6-201, IS AMENDED AS FOLLOWS:

20           (i) IN THE TEMPORARY VERSION, THERE IS A NEW SUBSECTION (1)(DD) THAT READS: "(DD) 50% OF THE FIRST  
21 \$100,000 OR LESS OF THE MARKET VALUE OF PROPERTY DESCRIBED IN [SECTION 64]";

22           (ii) IN THE VERSION THAT BECOMES EFFECTIVE JANUARY 1, 2003, THERE IS A NEW SUBSECTION (1)(EE) THAT  
23 READS: "(EE) 50% OF THE FIRST \$100,000 OR LESS OF THE MARKET VALUE OF PROPERTY DESCRIBED IN [SECTION 64]";

24           (iii) IN THE VERSION THAT IS CONTINGENTLY EFFECTIVE, THERE IS A NEW SUBSECTION (1)(QQ) THAT READS: "(QQ)  
25 50% OF THE FIRST \$100,000 OR LESS OF THE MARKET VALUE OF PROPERTY DESCRIBED IN [SECTION 64]".

26           (2) If [LC 646] is not approved by the electorate, then:

27           (a) [section 63(4)] is void; and

28           (b) "90%" in [section 64(4)] is amended to read "100%".

29

30           NEW SECTION. Section 157. Effective date. This act is effective on approval by the electorate.

