

SENATE BILL NO. 504

INTRODUCED BY S. KITZENBERG

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A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING A 4 PERCENT SALES TAX AND USE TAX; ALLOWING CERTAIN SALES TAX AND USE TAX EXEMPTIONS INCLUDING UNPREPARED FOOD ITEMS, MEDICAL ITEMS, AND MEDICAL DRUGS; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; PROVIDING THAT ONE-HALF OF THE REVENUE OF THE SALES TAX AND USE TAX BE USED TO PROVIDE A REFUNDABLE INCOME TAX CREDIT EQUAL TO 39 PERCENT OF PROPERTY TAXES PAID ON RESIDENTIAL PROPERTY; PROVIDING THAT ONE-QUARTER OF THE REVENUE OF THE SALES TAX AND USE TAX BE USED FOR UNIVERSITY SYSTEM FUNDING; PROVIDING THAT ONE-QUARTER OF THE REVENUE OF THE SALES TAX AND USE TAX BE USED IN FUNDING STATEWIDE TEACHER AND SPECIALIST PAY SCHEDULES; ESTABLISHING STATEWIDE TEACHER AND SPECIALIST PAY SCHEDULES; PROVIDING A TRANSITION PROVISION; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 through 53], unless the context requires otherwise, the following definitions apply:

- (1) "Engaging in business" means carrying on or causing to be carried on any activity involving retail sales or leases of property with the purpose of direct or indirect benefit.
- (2) "Food products for human consumption":
  - (a) means food for domestic home consumption as defined in 7 U.S.C. 2012(g), as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. 2012(h), as amended; and
  - (b) does not mean or include:
    - (i) medicine or preparations, in liquid, powdered, granular, bottled, capsule, lozenge, or pill form, sold as a dietary supplement or adjunct not prescribed by a licensed physician;
    - (ii) carbonated water or soft drinks marketed in containers;
    - (iii) chewing gum;
    - (iv) candies or confectioneries.

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

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

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

6           (b) any agent operating within this state under the authority of the person or its subsidiary,  
7 whether the place of business or agent is located in the state permanently or temporarily or whether or  
8 not the person or subsidiary is authorized to do business within this state.

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

12           (b) The term does not include construction.

13           (6) "Medicine" or "drug" means any substance or preparation that is intended for use by external  
14 or internal application to the human body or mind in the diagnosis, cure, mitigation, treatment, or  
15 prevention of disease that are subject to regulation by the federal food and drug administration, including  
16 those that are not required to be prescribed.

17           (7) "Permit" or "seller's permit" means a seller's permit as described in [section 30].

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

21           (9) "Sale", "selling", or "buying" means the transfer of property for consideration or the  
22 performance of a service for consideration.

23           (10) (a) "Sales price", in addition to the other meanings provided in this subsection (10), means  
24 the total amount of money or the value of other consideration, except trade-in property of like kind,  
25 received from selling property in Montana, from leasing property used in Montana, or from performing  
26 services in Montana. The term includes all consideration from the sale of property handled on consignment  
27 but excludes cash discounts allowed and taken and any type of time-price differential.

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

1 (c) (i) Except as provided in [section 36], when the sale of property is made under any type of  
2 charge or conditional or time-sales contract or the leasing of property is made under a leasing contract,  
3 the seller or lessor shall treat the sales price, excluding any type of time-price differential, under the  
4 contract as the sales price at the time of the sale.

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

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

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

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

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

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

19

20 **NEW SECTION. Section 2. Imposition and rate of sales tax and use tax -- exceptions.** (1) Except  
21 as provided in subsection (4), a sales tax of 4% is imposed on all sales of property. The tax is imposed  
22 on the purchaser and must be collected by the seller and paid to the department by the seller. The seller  
23 holds all taxes collected in trust for the state. The tax must be applied to the sales price.

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

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

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

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

1 boundaries of an Indian reservation within this state; or

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

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

7 (4) (a) The sale or use of a vehicle subject to a tax or fee imposed under Title 61, chapter 3, part  
8 5, is exempt from the sales tax and use tax imposed under this section.

9 (b) The sale of property exempt or nontaxable under [sections 1 through 53] is exempt from the  
10 tax imposed in subsections (1) and (2).

11

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

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

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

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

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

25

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

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

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

1 (3) A person may not advertise, hold out, or state to the public or to any customer that the tax  
2 imposed by [sections 1 through 53] will be absorbed or refunded.

3

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

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

9

10 **NEW SECTION. Section 6. Collection of sales tax and use tax -- listing of business locations and**  
11 **agents -- severability.** (1) A person engaged in the business of selling property subject to taxation under  
12 [sections 1 through 53] shall collect the sales tax from the purchaser and pay the tax collected to the  
13 department.

14 (2) (a) A person who solicits or exploits the consumer market in this state by regularly and  
15 systematically performing an activity within this state and whose sales are not subject to the sales tax  
16 shall collect the use tax from the purchaser and pay the tax collected to the department.

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

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

21 (ii) canvassing;

22 (iii) demonstrating;

23 (iv) collecting money;

24 (v) warehousing or storing merchandise;

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

27 (vii) to the extent permitted by federal law, soliciting orders for property by means of  
28 telecommunication or a television shopping system or by providing telecommunication services that use  
29 toll or toll-free numbers and that are intended to be broadcast by cable television or other means to  
30 consumers in this state;

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

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

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

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

12 (3) A person engaging in business in this state shall, before making any sales, obtain a seller's  
13 permit as provided in [section 30] and at the time of making a sale, whether within or outside of the state,  
14 collect the tax imposed by [section 2] from the purchaser and give to the purchaser a receipt, in the  
15 manner and form prescribed by rule, for the tax paid.

16 (4) The department may authorize the collection of the tax imposed by [section 2] by any retailer  
17 who does not maintain a place of business within this state but who, to the satisfaction of the department,  
18 is in compliance with the law. When authorized, the person shall collect the tax upon all property that, to  
19 the person's knowledge, is for use within this state and subject to taxation under [sections 1 through 53].

20 (5) All sales tax and use tax required to be collected and all sales tax and use tax collected by any  
21 person under [sections 1 through 53] constitute a debt owed to this state by the person required to collect  
22 the tax.

23 (6) A person selling property to residents of this state, when the property is delivered to a location  
24 within this state, shall, upon request by the department, provide a list of all sales to the department. The  
25 list must include the name and address of each purchaser and the amount of each sale. The department  
26 may pay to any person furnishing a list of sales or purchasers the reasonable costs of reproducing the list.

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

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

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

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

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

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

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

11 (4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and  
12 believes in good faith that the buyer or lessee will employ the property or service transferred in a  
13 nontaxable manner, the properly executed nontaxable transaction certificate is considered conclusive  
14 evidence that the sale is nontaxable.

15

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

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

20 (a) the number of the seller's permit issued to the purchaser as provided in [section 30];

21 (b) the general character of property sold by the purchaser in the regular course of business;

22 (c) the property purchased for resale;

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

24 (e) a signature line for the purchaser.

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

30

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

5            (2) The sale of natural gas, water, electricity, telephone communications services, refuse  
6 collection, or other utility services is not exempt from the sales tax and use tax.

7

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

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

11           (a) food products served as meals on or off the premises of the retailer;

12           (b) milk or cream sold as beverages commonly referred to as milkshakes, malted milks, or any  
13 similar beverage;

14           (c) food products furnished, prepared, or served for consumption at tables, chairs, or counters or  
15 from trays, glasses, dishes, or other tableware, whether provided by the retailer or by a person with whom  
16 the retailer contracts to furnish, prepare, or serve food products to others;

17           (d) food products sold for immediate consumption, even though the products are sold on a  
18 "takeout", "to go", or "U-bake" order and are actually packaged or wrapped and taken from the premises  
19 of the retailer;

20           (e) food products sold for consumption within a place that charges an admission fee; or

21           (f) food or drink vended by or through machines on behalf of a vendor.

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

25

26           NEW SECTION. **Section 11. Exemption -- medicine, drugs, and certain devices.** Medicine, drugs,  
27 insulin, and therapeutic and prosthetic devices are exempt from the sales tax and use tax.

28

29           NEW SECTION. **Section 12. Exemption -- agricultural products -- livestock feeding.** (1) (a) The  
30 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer,

1 trapper, or nonprofit marketing association is exempt from the sales tax.

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

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

7

8 **NEW SECTION. Section 13. Exemption -- insurance premiums.** The premiums of an insurance  
9 company, a health service corporation, a health maintenance organization, or a fraternal benefit society  
10 or of an agent of the company, corporation, organization, or society are exempt from the sales tax.

11

12 **NEW SECTION. Section 14. Exemption -- dividends and interest.** The following are exempt from  
13 the sales tax:

14 (1) interest on money loaned or deposited;

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

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

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

19

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

23 (2) The sale and use of special fuel that is exempt from taxation under Title 15, chapter 70, part  
24 3, is exempt from the sales tax and use tax.

25

26 **NEW SECTION. Section 16. Exemption -- isolated or occasional sale or lease of property.** The  
27 isolated or occasional sale or lease of property by a person who is not regularly engaged in or who does  
28 not claim to be engaged in the business of selling or leasing the same or a similar property is exempt from  
29 the sales tax and use tax. Occasional sales include sales that are occasional but not continuous and that  
30 are made for the purpose of fundraising by nonprofit organizations, including but not limited to youth clubs,

1 service clubs, and fraternal organizations.

2

3 **NEW SECTION. Section 17. Exemption -- mineral interests.** The sale or lease of interests in  
4 minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

5

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

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

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

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

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

21

22 **NEW SECTION. Section 19. Exemption -- personal effects.** The use by an individual of personal  
23 or household effects brought into the state for the establishment by the individual of an initial residence  
24 in this state and the use of property brought into the state by a nonresident for the nonresident's own  
25 nonbusiness use while temporarily within this state is exempt from the use tax.

26

27 **NEW SECTION. Section 20. Exemption -- feed, fertilizers.** The sale or use of the following when  
28 used in the course of an agricultural business is exempt from the sales tax and use tax:

29 (1) feed for livestock, fish raised for human consumption, poultry, or animals raised for their hides  
30 or pelts;

- 1 (2) semen, ova, or embryos used in animal husbandry;
- 2 (3) seeds;
- 3 (4) Christmas trees;
- 4 (5) roots;
- 5 (6) bulbs;
- 6 (7) soil conditioners;
- 7 (8) fertilizers;
- 8 (9) insecticides;
- 9 (10) insects used to control weeds or the population of other insects;
- 10 (11) fungicides;
- 11 (12) weedicides;
- 12 (13) herbicides; or
- 13 (14) water for commercial irrigation.

14

15 **NEW SECTION. Section 21. Exemption -- certain chemicals, reagents, and substances.** (1) The  
 16 sale or use by any person of any chemical, reagent, or other substance that is normally used or consumed  
 17 in the processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility or in acidizing oil  
 18 wells, is exempt from the sales tax and use tax.

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

20

21 **NEW SECTION. Section 22. 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 ultimately be subject to the sales tax.

26

27 **NEW SECTION. Section 23. Nontaxability -- sale to miner or manufacturer.** (1) The sale of  
 28 property to a buyer engaged in the business of mining or manufacturing is nontaxable if:

- 29 (a) the buyer delivers a nontaxable transaction certificate to the seller; and
- 30 (b) the buyer incorporates the property as an ingredient or component part of the product in the

1 business of mining or manufacturing; or

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

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

8

9 **NEW SECTION. Section 24. Nontaxability -- sale of tangible personal property for leasing.** The  
10 sale of property, other than furniture or appliances, and the rental or lease of mobile homes and property,  
11 other than coin-operated or currency-operated machines, is nontaxable if:

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

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

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

18

19 **NEW SECTION. Section 25. Lease for subsequent lease.** The lease of property, other than  
20 furniture or appliances, and the rental or lease of mobile homes and property, other than coin-operated or  
21 currency-operated machines, is nontaxable if:

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

23 (2) the lessee does not use the property in any manner other than for subsequent lease in the  
24 ordinary course of business.

25

26 **NEW SECTION. Section 26. Nontaxability -- sale or lease of real property or improvements and  
27 lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

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

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

1

2           NEW SECTION. **Section 27. Nontaxability -- transactions in interstate commerce -- certain**  
3 **property used in interstate commerce -- exception.** (1) A transaction in interstate commerce is nontaxable  
4 to the extent that the imposition of the sales tax or use tax would be unlawful under the United States  
5 constitution.

6           (2) The following are also nontaxable:

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

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

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

14

15           NEW SECTION. **Section 28. Nontaxability -- use of property for leasing.** The value of leased  
16 property is not considered in computing the use tax due if the person holding the property for lease:

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

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

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

23

24           NEW SECTION. **Section 29. Credit -- out-of-state taxes.** If a sales, use, or similar tax has been  
25 levied by another state or a political subdivision of another state on property that was bought outside this  
26 state but that will be used or consumed in this state and the tax was paid by the current user, the amount  
27 of tax paid may be credited against any use tax due this state on the same property. The credit may not  
28 exceed the sales tax or use tax due this state.

29

30           NEW SECTION. **Section 30. Seller's permit.** (1) A person wishing to engage in business in this

1 state shall obtain a seller's permit before engaging in business in this state.

2 (2) Upon an applicant's compliance with [sections 1 through 53], the department shall issue to  
3 the applicant a separate, numbered seller's permit for each location in which the applicant is maintaining  
4 an office or other place of business within Montana. A permit is valid until revoked or suspended but is  
5 not assignable. A permit is valid only for the person in whose name it is issued and for the transaction of  
6 business at the place designated. The permit must be conspicuously displayed at all times at the place for  
7 which it is issued.

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

13

14 **NEW SECTION. Section 31. Permit application -- requirements -- place of business -- form.** (1) (a)  
15 A person desiring to engage in the business of making retail sales in Montana shall file with the department  
16 an application for a permit. If the person has more than one location in which the person is maintaining  
17 an office or other place of business, an application may include multiple locations.

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

20 (c) An applicant who is not maintaining an office or other place of business and who moves from  
21 place to place is considered to have only one place of business and shall attach the permit to the  
22 applicant's cart, stand, truck, or other merchandising device.

23 (2) Each person or class of persons obligated to file a return under [sections 1 through 53] is  
24 required to file an application for a permit.

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

30

1            NEW SECTION. **Section 32. Revocation or suspension of permit -- hearing -- notice -- appeal.** (1)

2 Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend  
3 any permit held by a person who fails to comply with the provisions of [sections 1 through 53].

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

7            (3) If a permit is revoked, the department may not issue a new permit except upon application  
8 accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of  
9 [sections 1 through 53]. The department may require security in addition to that authorized by [section  
10 40] in an amount reasonably necessary to ensure compliance with [sections 1 through 53] as a condition  
11 for the issuance of a new permit to the applicant.

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

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

16

17            NEW SECTION. **Section 33. Improper use of subject of purchase obtained with nontaxable**

18 **transaction certificate -- penalty.** (1) If a purchaser who uses a nontaxable transaction certificate uses the  
19 subject of the purchase for a purpose other than one allowed as nontaxable under [sections 1 through 53],  
20 the use is considered a taxable sale as of the time of first use by the purchaser and the sales price is the  
21 price that the purchaser paid. If the sole nonexempt use is rental while holding for sale, the purchaser shall  
22 include in the sales price the amount of the rental charged. Upon subsequent sale of the property, the  
23 seller shall include the entire amount of the sales price, without deduction of amounts previously received  
24 as rentals.

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

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

30

1            **NEW SECTION. Section 34. Commingling nontaxable certificate goods.** If a purchaser uses a  
2 nontaxable transaction certificate with respect to the purchase of fungible goods and commingles these  
3 goods with fungible goods that were not purchased with a nontaxable transaction certificate but that are  
4 of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from  
5 the mass of commingled goods are considered to be sales of the goods purchased with the certificate until  
6 the quantity of commingled goods sold equals the quantity of goods originally purchased under the  
7 certificate.

8

9            **NEW SECTION. Section 35. Liability for payment of tax -- security for retailer without place of**  
10 **business -- penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the  
11 taxes have been paid to the department.

12            (2) A retailer who is not maintaining an office or other place of business in this state is liable for  
13 the sales tax or use tax in accordance with [sections 1 through 53] and may be required to furnish  
14 adequate security as provided in [section 40] to ensure collection and payment of the taxes. When  
15 authorized and except as otherwise provided in [sections 1 through 53], the retailer is liable for the taxes  
16 upon all property sold in this state in the same manner as a retailer who is maintaining an office or other  
17 place of business within this state. The seller's permit provided for in [section 30] may be canceled at any  
18 time if the department considers the security inadequate or believes that the taxes can be collected more  
19 effectively in another manner.

20            (3) An agent, canvasser, or employee of a retailer doing business in this state who does not  
21 possess a seller's permit issued by the department may not sell, solicit orders for, or deliver any property  
22 or services in Montana. If an agent, canvasser, or employee violates the provisions of [sections 1 through  
23 53], the person is subject to a fine of not more than \$100 for each separate transaction or event.

24

25            **NEW SECTION. Section 36. Application for permission to report on accrual basis.** (1) A person  
26 who has a seller's permit may apply to the department for permission to report and pay the sales tax or  
27 use tax on an accrual basis.

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

30            (3) A person may not report or pay the sales tax or use tax on an accrual basis unless the person

1 has received written permission from the department.

2

3 **NEW SECTION. Section 37. Returns -- payment -- authority of department.** (1) Except as  
4 provided in subsection (2), on or before the 15th day of each month in which the tax imposed by [sections  
5 1 through 53] is payable, a return, on a form provided by the department, and payment of the tax for the  
6 preceding month must be filed with the department. Each person engaged in business in this state or using  
7 property in this state that is subject to tax under [sections 1 through 53] shall file a return. A person  
8 making retail sales at two or more places of business shall file a separate return for each separate place  
9 of business.

10 (2) A person who has a tax liability that averages less than \$100 per month may report and pay  
11 the tax imposed by [sections 1 through 53] on a quarterly basis and shall file a return with payment on  
12 or before the 15th day of the month following the end of the quarter.

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

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

15 (ii) a person who:

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

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

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

21 (4) (a) A person required to collect and pay to the department the taxes imposed by [sections 1  
22 through 53] shall keep records, render statements, make returns, and comply with the provisions of  
23 [sections 1 through 53] and the rules prescribed by the department. Each return or statement must include  
24 the information required by the rules of the department.

25 (b) For the purpose of determining compliance with the provisions of [sections 1 through 53], the  
26 department is authorized to examine or cause to be examined any books, papers, records, or memoranda  
27 relevant to making a determination of the amount of tax due, whether the books, papers, records, or  
28 memoranda are the property of or in the possession of the person filing the return or another person. In  
29 determining compliance, the department may use statistical sampling and other sampling techniques  
30 consistent with generally accepted auditing standards. The department may also:

- 1 (i) require the attendance of a person having knowledge or information relevant to a return;
- 2 (ii) compel the production of books, papers, records, or memoranda by the person required to
- 3 attend;
- 4 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the
- 5 tax is or may be jeopardized because of delay;
- 6 (iv) take testimony on matters material to the determination; and
- 7 (v) administer oaths or affirmations.
- 8 (5) Pursuant to rules established by the department, returns may be computer-generated and
- 9 electronically filed.

10

11 **NEW SECTION. Section 38. Credit for taxes paid on worthless accounts -- taxes paid if account**

12 **collected.** (1) Sales taxes paid on an accrual basis by a person filing a return under [section 37] on sales

13 found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes

14 may be credited on a subsequent payment of the tax.

15 (2) If the accounts are subsequently collected, the sales tax must be paid on the amount collected.

16

17 **NEW SECTION. Section 39. Vendor allowance.** (1) A person filing a return under [section 37]

18 may claim a monthly vendor allowance for each permitted location in the amount of 1.5% of the tax

19 determined to be payable to the state or \$50 a month, whichever is less.

20 (2) A person filing a quarterly return may claim 1.5% of the tax determined to be payable to the

21 state or \$150 a quarter, whichever is less.

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

23

24 **NEW SECTION. Section 40. Security -- limitations -- sale of security deposit at auction -- bond.**

25 (1) The department may require a retailer to deposit, with the department, security in a form and amount

26 that the department determines is appropriate. The deposit may not be more than twice the estimated

27 average liability for the period for which the return is required to be filed or \$10,000, whichever is less.

28 The amount of security may be increased or decreased by the department, subject to the limitations

29 provided in this section.

30 (2) (a) If necessary, the department may sell, at public auction, property deposited as security to

1 recover any sales tax or use tax amount required to be collected, including interest and penalties.

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

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

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

8 (4) In addition to the other requirements of this section, the department may require the corporate  
9 officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of  
10 liability for the payment of the tax due under [sections 1 through 53].

11

12 NEW SECTION. **Section 41. Examination of return -- adjustments -- delivery of notices and**  
13 **demands.** (1) If the department determines that the amount of tax due is different from the amount  
14 reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 37]  
15 constitutes the tax to be paid.

16 (2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess  
17 must be paid to the department within 30 days after notice of the amount and demand for payment is  
18 mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided  
19 in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on  
20 the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist,  
21 refunded to the person making the return.

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

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

26 (b) served personally upon the taxpayer.

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

29

30 NEW SECTION. **Section 42. Penalties and interest for violation.** (1) (a) If a person, without

1 purposely or knowingly violating any requirement imposed by [sections 1 through 53], fails to file a return  
2 and pay the tax on or before the due date, there must be imposed a penalty of 5% of the balance of debt  
3 unpaid with respect to the return as of the date due, but the penalty for failure to file a return by its due  
4 date may not be less than \$20. The department may abate the penalty if the person establishes that the  
5 failure to file on time was due to reasonable cause and was not due to neglect by the taxpayer.

6 (b) If a person, without purposely or knowingly violating any requirement imposed by [sections  
7 1 through 53], fails to pay a debt on or before its due date, there must be added to the debt a penalty of  
8 10% of the debt, but not less than \$20, and interest must accrue on the debt at a rate of 1% for each  
9 month or fraction of a month for the entire period that the debt remains unpaid. The department may abate  
10 the penalty if the person establishes that the failure to pay was due to reasonable cause and was not due  
11 to neglect by the taxpayer. The department shall adopt rules that define reasonable cause.

12 (2) If a person purposely or knowingly violates any requirement imposed by [sections 1 through  
13 53] by failing to file a return or to pay a debt, there must be added to the debt an additional amount equal  
14 to 25% of the debt, but not less than \$50, and interest at 1% for each month or fraction of a month  
15 during which the debt remains unpaid.

16

17 **NEW SECTION. Section 43. Authority to collect delinquent taxes.** (1) (a) The department shall  
18 collect taxes that are delinquent as determined under [sections 1 through 53].

19 (b) If a tax imposed by [sections 1 through 53] or any portion of the tax is not paid when due, the  
20 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

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

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

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

28

29 **NEW SECTION. Section 44. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or  
30 delinquent taxes at the rate of 1% for each month or fraction of a month during which the taxes remain

1 unpaid. The interest must be computed from the date the return and tax were originally due.

2 (2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and  
3 if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added  
4 to the amount of the deficiency a penalty of 10% of the tax, but in no case less than \$25.

5

6 NEW SECTION. **Section 45. Limitations.** (1) Except in the case of a person who purposely or  
7 knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions  
8 of [sections 1 through 53], a deficiency may not be assessed or collected with respect to a month or  
9 quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to  
10 or personally served upon the taxpayer within 5 years from the date the return was filed. For purposes of  
11 this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

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

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

17 (a) the taxpayer has by written agreement suspended the federal statute of limitations for  
18 collection of federal tax, provided that the suspension of the limitation set forth in this section lasts:

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

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

22 (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return  
23 as required by 15-30-146 or 15-31-506 until 5 years after the federal changes become final or the  
24 amended federal return was filed, whichever the case may be.

25

26 NEW SECTION. **Section 46. Refunds -- interest -- limitations.** (1) A claim for a refund or credit  
27 as a result of overpayment of taxes collected under [sections 1 through 53] must be filed within 5 years  
28 of the date that the return was due, without regard to any extension of time for filing.

29 (2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged  
30 on delinquent taxes in [section 42].

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

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

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

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

8

9 NEW SECTION. **Section 47. Administration -- rules.** The department shall:

10 (1) administer and enforce the provisions of [sections 1 through 53];

11 (2) cause to be prepared and distributed forms and information that may be necessary to  
12 administer the provisions of [sections 1 through 53]; and

13 (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of  
14 [sections 1 through 53].

15

16 NEW SECTION. **Section 48. Revocation of corporate license -- hearing authorized -- appeal.** (1)

17 If a corporation authorized to do business in this state and required to pay the taxes imposed under  
18 [sections 1 through 53] fails to comply with any of the provisions of [sections 1 through 53] or any rule  
19 of the department, the department may, for reasonable cause, certify to the secretary of state a copy of  
20 an order finding that the corporation has failed to comply with specific statutory provisions or rules.

21 (2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing  
22 the corporation to do business in this state and may issue a new certificate only when the corporation has  
23 obtained from the department an order finding that the corporation has complied with its obligations under  
24 [sections 1 through 53].

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

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

28

29 NEW SECTION. **Section 49. Taxpayer quitting business -- liability of successor.** (1) (a) All taxes

30 payable under [sections 1 through 53] are due and payable immediately whenever a taxpayer quits

1 business, sells, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

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

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

8 (3) If a tax is due but has not been paid as provided in subsection (1)(b), the successor is liable  
9 for the payment of the full amount of tax. The payment of the tax by the successor is considered to be  
10 a payment upon the sales price and, if the payment is greater in amount than the sales price, the amount  
11 of the difference becomes a debt due to the successor from the taxpayer owing the tax under subsection  
12 (1).

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

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

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

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

21

22 **NEW SECTION. Section 50. Tax as debt.** (1) The tax imposed by [sections 1 through 53] and  
23 related interest and penalties become a personal debt of the person required to file a return from the time  
24 the liability arises, regardless of when the time for payment of the liability occurs.

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

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

1 (b) In addition to the liability imposed by subsection (3)(a), the officer or employee of a corporation  
2 whose duty it is to collect, truthfully account for, and pay to the state the amounts imposed by [sections  
3 1 through 53] and who fails to pay the tax is liable to the state for the amounts imposed by [sections 1  
4 through 53] and the penalty and interest due on the amounts.

5

6 **NEW SECTION. Section 51. Information -- confidentiality -- agreements with another state.** (1) (a)  
7 Except as provided in subsections (2) and (3), it is unlawful for an employee of the department or any  
8 other public official or public employee to divulge or otherwise make known information that is disclosed  
9 in a report or return required to be filed under [sections 1 through 53] or information that concerns the  
10 affairs of the person making the return and that is acquired from the person's records, officers, or  
11 employees in an examination or audit.

12 (b) This section may not be construed to prohibit the department from publishing statistics if they  
13 are classified in a way that does not disclose the identity and content of any particular return or report.  
14 A person violating the provisions of this section is subject to the penalty provided in 15-30-303 for  
15 violating the confidentiality of individual income tax information.

16 (2) (a) The department may enter into an agreement with the taxing officials of another state for  
17 the interpretation and administration of the laws of their state that provide for the collection of a sales tax  
18 or use tax in order to promote fair and equitable administration of the laws and to eliminate double  
19 taxation.

20 (b) In order to implement the provisions of [sections 1 through 53], the department may furnish  
21 information on a reciprocal basis to the taxing officials of another state, provided that the information  
22 remains confidential under statutes in the state receiving the information that are similar to this section.

23 (3) In order to facilitate processing of returns and payment of taxes required by [sections 1  
24 through 53], the department may contract with vendors and may disclose data to the vendors. The data  
25 disclosed must be administered by the vendor in a manner consistent with this section.

26

27 **NEW SECTION. Section 52. Sales tax and use tax account.** (1) There is within the state special  
28 revenue fund an account for sales tax and use tax money.

29 (2) All money collected under [sections 1 through 53] must be paid by the department into the  
30 account for sales tax and use tax money.

1 (3) There must be retained in the account for sales tax and use tax money the amounts necessary  
2 under [sections 1 through 53] to repay overpayments, pay any erroneous receipts illegally assessed or  
3 collected or that are excessive in amount, and pay any other refunds otherwise required.

4

5 **NEW SECTION. Section 53. Disposition of sales tax and use tax revenue -- legislative**  
6 **appropriation.** (1) Sales tax and use tax revenue deposited in the account for sales tax and use tax money  
7 established in [section 52] must be allocated as follows:

8 (a) 25% to the state special revenue fund for statewide public school teachers' and specialists'  
9 salaries as provided in [section 56];

10 (b) 25% to the state special revenue fund for the support, maintenance, and improvement of the  
11 Montana university system, vocational-technical programs within the university system, and community  
12 college districts, subject to the board of regents' supervision, as provided in [section 55]; and

13 (c) 50% to the state general fund to offset residential property tax relief as provided in [section  
14 54].

15 (2) This section provides for the disposition of sales tax and use tax revenue. Allocations may not  
16 be made from the account for sales tax and use tax money until appropriated by the legislature.

17

18 **NEW SECTION. Section 54. Tax credit for residential property -- definition.** (1) A taxpayer is  
19 allowed a refundable credit against taxes otherwise due under this chapter in an amount equal to 39% of  
20 the amount of property taxes actually paid by the taxpayer on the taxpayer's residential property. The  
21 credit is in addition to any deduction claimed for property taxes paid on the property and any credit  
22 received under the residential property tax credit for the elderly under 15-30-171 through 15-30-179.

23 (2) The credit allowed under this section may be refunded to the taxpayer if the amount of the  
24 credit exceeds the amount of the taxpayer's tax liability.

25 (3) For purposes of this section, "residential property" means:

26 (a) a single-family residence or a rental multifamily dwelling unit, including a trailer, manufactured  
27 home, or mobile home;

28 (b) appurtenant improvements to the residence or dwelling;

29 (c) the parcel of land upon which the single-family residence or rental multifamily dwelling unit and  
30 the appurtenant improvements to the residence or dwelling unit are located; and

1 (d) leasehold improvements.

2

3 **NEW SECTION. Section 55. University system funding.** There is allocated from the money  
 4 collected from the sales and use tax to the state special revenue fund 25% of the sales and use tax, as  
 5 provided in [section 53], for the support, maintenance, and improvement of the Montana university  
 6 system, vocational-technical programs within the university system, and community college districts,  
 7 subject to the board of regents' supervision.

8

9 **NEW SECTION. Section 56. Statewide certified teachers' and specialists' salaries.** (1) Except as  
 10 provided in subsection (3), effective for the school fiscal year beginning July 1, 2001, a school district  
 11 shall, at a minimum, pay each teacher or specialist who is certified as class 1, class 2, class 4, or class  
 12 5 or pay each teacher or specialist identified by the superintendent of public instruction as being certified  
 13 as class 6 or class 7, as follows:

14 Step	BA	BA+ 10	BA+ 20	BA+ 30	BA+ 40	BA+ 50	BA+ 60	BA+ 70	BA+ 80	BA+ 90
15 1	\$25,000	25,750	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619
16 2	25,750	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619	33,598
17 3	26,523	27,318	28,138	28,982	29,851	30,747	31,669	32,619	33,598	34,606
18 4		28,138	28,982	29,851	30,747	31,669	32,619	33,598	34,606	35,644
19 5		28,982	29,851	30,747	31,669	32,619	33,598	34,606	35,644	36,713
20 6			30,747	31,669	32,619	33,598	34,606	35,644	36,713	37,815
21 7			31,669	32,619	33,598	34,606	35,644	36,713	37,815	38,949
22 8				33,598	34,606	35,644	36,713	37,815	38,949	40,118
23 9				34,606	35,644	36,713	37,815	38,949	40,118	41,321
24 10					36,713	37,815	38,949	40,118	41,321	42,561
25 11					37,815	38,949	40,118	41,321	42,561	43,838
26 12						40,118	41,321	42,561	43,838	45,153
27 13						41,321	42,561	43,838	45,153	46,507
28 14							43,838	45,153	46,507	47,903
29 15							45,153	46,507	47,903	49,340

30 (2) Effective for school fiscal years beginning on or after July 1, 2002, a school district shall pay

1 the base salary provided in subsection (1) or (3) multiplied by the rate of increase in the consumer price  
2 index for all urban consumers, U.S. department of labor, bureau of labor statistics, for the preceding  
3 December-to-December period.

4 (3) If a collective bargaining agreement establishes a higher base salary than the base established  
5 in subsection (1) or (2), the state shall pay the base salary established through collective bargaining.

6 (4) (a) In addition to the compensation provided for in subsection (1), (2), or (3), the state shall, for  
7 the school fiscal year beginning July 1, 2001, pay each certified teacher or specialist who has completed  
8 20 years of credited service recognized by the Montana teachers' retirement system 5% of the employee's  
9 base salary.

10 (b) For the school fiscal year beginning July 1, 2001, in addition to the longevity allowance provided  
11 under subsection (4)(a), the state shall pay each teacher or specialist who has completed 25 years of  
12 credited service recognized by the Montana teachers' retirement system an additional 3% of the  
13 employee's base salary.

14 (5) In addition to the base salary provided in subsection (1), (2), or (3) and the longevity increases  
15 provided in subsection (4), the state shall pay to each qualified teacher or specialist a:

16 (a) \$1,000 annual stipend to each teacher or specialist holding a master's or doctoral degree;

17 (b) \$2,000 annual stipend to each teacher or specialist for national certification during the term of  
18 certification;

19 (c) \$1,000 student-teacher advisership stipend each semester; and

20 (d) \$1,000 annual stipend plus 3 days release time for a personal instruction committee assignment.

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

22 (a) "B.A." means baccalaureate degree.

23 (b) "BA + " means the number of credits earned since receiving the B.A.

24 (c) "Credits" means college semester hour credits and equivalent in-service credits.

25

26 **NEW SECTION. Section 57. Transition.** (1) Notwithstanding the provisions of [section 30], each  
27 person engaging in business prior to [the applicability date of sections 1 through 53] must have applied  
28 for and received, prior to [the applicability date of sections 1 through 53], a valid seller's permit described  
29 in [section 30].

30 (2) Notwithstanding the provisions of [section 8], any person engaging in business prior to [the

1 applicability date of sections 1 through 53] may apply for and receive, prior to [the applicability date of  
2 sections 1 through 53], a valid nontaxable transaction certificate described in [section 8].

3 (3) The department of revenue shall adopt rules to provide procedures for receiving and processing  
4 an application for a seller's permit and for providing a seller's permit and a nontaxable transaction  
5 certificate prior to [the applicability date of sections 1 through 53].

6

7 **NEW SECTION. Section 58. Codification instruction.** (1) [Sections 1 through 53] are intended to  
8 be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 53].

9 (2) [Section 54] is intended to be codified as an integral part of Title 15, chapter 30, and the  
10 provisions of Title 15, chapter 30, apply to [section 54].

11 (3) [Section 55] is intended to be codified as an integral part of Title 20, chapter 25, and the  
12 provisions of Title 20, chapter 25, apply to [section 55].

13 (4) [Section 56] is intended to be codified as an integral part of Title 20, chapter 4, and the  
14 provisions of Title 20, chapter 4, apply to [section 56].

15

16 **NEW SECTION. Section 59. Saving clause.** [This act] does not affect rights and duties that  
17 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
18 act].

19

20 **NEW SECTION. Section 60. Severability.** If a part of [this act] is invalid, all valid parts that are  
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
22 applications, the part remains in effect in all valid applications that are severable from the invalid  
23 applications.

24

25 **NEW SECTION. Section 61. Effective date.** [This act] is effective July 1, 2001.

26

27 **NEW SECTION. Section 62. Applicability.** (1) [Sections 1 through 53] apply to sales of goods after  
28 December 31, 2001.

29 (2) [Section 54] applies to tax years after December 31, 2001.

30

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