2

EXHIBIT 2
DATE 4/19/05
SB 516

Amendments to Senate Bill No. 516
2nd Reading/2nd House Copy

For the Senate Free Conference Committee

Prepared by Lee Heiman
April 19, 2005 (10:36am)

1. Title, line 11 through line 14.
Strike: "REQUIRING" on line 11 through "HEARING;" on line 14

2. Title, line 16 through line 18.
Strike: "ADDITIONAL" on line 16 through "REFUND" on line 18
Insert: "APPEAL DISCOVERY AND PREHEARING PROCEDURES"

3. Title, line 19.
Strike: "15-1-402,"

4. Page 2, line 3.
Strike: "<u>, FOR THE PURPOSES OF SUBSECTION (7),</u>"

5. Page 2, line 13.
Strike: "Disputes"
Strike: "Except as provided in subsection (7), disputes"

6. Page 3, line 1.
Strike: "<u>60</u>"
Insert: "180"

7. Page 3, line 26.
Strike: "<u>THE DEPARTMENT AND THE OWNER</u>"
Insert: "In appeals"
Following: the second "<u>PROPERTY</u>"
Insert: ", the department and the taxpayer"

8. Page 3, line 30 through page 7 line 17.
Strike: section 2 in its entirety
Renumber: subsequent sections

9. Page 9, line 8.
Strike: "<u>except as provided in subsection (1)(b),</u>"

10. Page 10, line 7 through line 21.
Strike: subsection (5) in its entirety
Renumber: subsequent subsection

11. Page 12, line 19.
Insert: "NEW SECTION. **Section 5. Discovery procedures -- prehearing procedures.** (1) Within 30 days of filing a complaint, the taxpayer shall provide to the department, without waiting for a discovery request, a preliminary discovery disclosure in conformity with subsection (2). Within 30 days of filing an answer, the department shall provide to the taxpayer, without waiting for a discovery request, a preliminary discovery disclosure in conformity with subsections (2)(a) and (2)(b).

(2) The preliminary discovery disclosure must contain the following information:

(a) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;

(b) a copy of, or description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment; and

(c) a specific statement of the value of property or the amount of tax that the taxpayer seeks to be awarded by the state tax appeal board, including any computation supporting the statement of value or tax as well as the documents or other evidence upon which the computation and statement of value and tax are based.

(3) A party shall make its preliminary discovery disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. The preliminary discovery disclosure must conform with the requirements of Rule 26, Montana Rules of Civil Procedure.

(4) A party shall disclose to the other party the identity of any person who may be used at trial to present evidence under Rule 702, 703, or 705 of the Montana Rules of Evidence. With respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, the disclosure must be accompanied by a written report prepared and signed by the witness. The report must contain:

(a) a complete statement of all opinions to be expressed

and the basis and reasons for the opinions;

(b) the data or other information considered by the witness in forming the opinions;

(c) any exhibits to be used as a summary of or support for the opinions;

(d) the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years;

(e) the compensation to be paid for the study and testimony; and

(f) a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 10 years.

(5) A party shall provide to the other party and file with the board at least 30 days prior to the hearing the following information regarding the evidence that it may present at trial other than solely for impeachment:

(a) the name, address, and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises;

(b) the designation of those witnesses whose testimony is expected to be presented by means of a deposition; and

(c) an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those that the party expects to offer and those that the party may offer if the need arises.

(6) Within 14 days following receipt of the information provided for in subsection (5), a party may serve and file a list disclosing any objection to the use under Rule 32, Montana Rules of Civil Procedure, of a deposition designated by another party under subsection (5) and any objection, together with the grounds for the motion, that may be made to the admissibility of materials identified under subsection (5). Objections not disclosed, other than objections under Rules 402 and 403 of the Montana Rules of Evidence, are waived.

(7) If a party fails to make the disclosures required by this section or fails to answer or cooperate in discovery, the other party may file an order compelling disclosure or discovery in the first judicial district court. The provisions of Rule 37 of the Montana Rules of Civil Procedure apply to any motion to compel disclosure or discovery. The court shall hear and decide the motion expeditiously.

(8) The provisions of subsections (1) through (6) do not apply to appeals in which the taxpayer is not represented by legal counsel."

Insert: "NEW SECTION. **Section 6. {standard} Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 15, chapter 2, part 3, and the provisions of Title 15, chapter 2, part 3, apply to [section 5]."

Renumber: subsequent sections

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