

## 1 SENATE BILL NO. 406

2 INTRODUCED BY J. ESSMANN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A PROPERTY TAXPAYER THAT OBJECTS TO THE  
5 ASSESSED VALUATION OF CERTAIN TYPES OF PROPERTY TO HAVE THE ASSESSED VALUATION  
6 SUBJECT TO MEDIATION; REQUIRING PAYMENT OF A FEE AND PROVIDING PROCEDURES FOR  
7 MEDIATION; ALLOWING AN OBJECTING TAXPAYER TO APPEAL THE ASSESSED VALUATION OF THE  
8 PROPERTY DIRECTLY TO DISTRICT COURT IF MEDIATION IS UNSUCCESSFUL; PROVIDING THAT THE  
9 UNIFORM DISPUTE REVIEW PROCEDURE DOES NOT APPLY TO THE ASSESSMENT OF CENTRALLY  
10 ASSESSED PROPERTY OR INDUSTRIAL PROPERTY THAT IS ASSESSED ANNUALLY BY THE  
11 DEPARTMENT OF REVENUE; CLARIFYING THE INFORMATION THAT MAY BE CONVEYED BETWEEN  
12 PARTIES BY A MEDIATOR; AND AMENDING SECTIONS 15-1-211, 15-1-402, 15-2-302, 15-8-601, 15-15-102,  
13 15-23-102, 15-23-104, 15-24-3112, AND 26-1-813, MCA."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16  
17 NEW SECTION. **Section 1. Mediation of valuation disputes -- centrally assessed and industrial**  
18 **properties.** (1) Within 30 days after a final decision of the department relating to the assessed value of centrally  
19 assessed property or industrial property that is assessed annually by the department, the objecting taxpayer may  
20 require that the assessed value be the subject of a mediation proceeding conducted as provided in 26-1-813. The  
21 request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general  
22 fund.

23 (2) The mediation proceeding must be conducted pursuant to 26-1-813 as a private, confidential, and  
24 informal dispute resolution. The mediation must be conducted by a person who is not a public employee and must  
25 be held at a privately owned facility. Because the mediation proceeding cannot result in a judgment or a  
26 compelled agreement, the proceeding is not a governmental operation, and until the dispute between the  
27 taxpayer and the department is resolved, either by agreement or through the appeal process, the records of the  
28 mediation proceeding may not be disclosed to the public.

29 (3) Within 45 days after the request for mediation, the mediator must have been selected by the parties  
30 and the parties must have scheduled a mediation proceeding unless waived by both parties. A mediation

1 proceeding may not proceed past 120 days without the consent of the objecting taxpayer and the department.

2 Each party is responsible for that party's mediation costs and shall jointly share the costs of the mediator.

3 (4) If the mediation is successful, the department shall value the property that was the subject of the  
4 objection as agreed to in the mediation.

5 (5) If the mediation is unsuccessful for centrally assessed properties or industrial property that is  
6 assessed annually by the department, the objector may appeal to the county tax appeal board or to the state tax  
7 appeal board as provided in 15-2-302 or the objector may bypass the state tax appeal board and file an action  
8 in district court relating to the assessed value of property set by the department. If the objector elects to file an  
9 action in district court, the objector may file the action in any county in which the property or a portion of the  
10 property is located or may file the action in the first judicial district.

11

12 **Section 2.** Section 15-1-211, MCA, is amended to read:

13 **"15-1-211. Uniform dispute review procedure -- notice -- appeal.** (1) The department shall provide  
14 a uniform review procedure for all persons or other entities, except as provided in subsection (1)(a).

15 (a) The department's dispute review procedure must be adopted by administrative rule and applies to  
16 all matters administered by the department and to all issues arising from the administration of the department,  
17 except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between  
18 the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30,  
19 part 25, or whether the employment relationship was that of an independent contractor. ~~The procedure applies~~  
20 ~~to assessments of centrally assessed property taxed pursuant to chapter 23.~~

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

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

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

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

29 (c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute  
30 resolution office, unless extended by mutual consent of the parties. If a final department decision is not issued

1 within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

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

4 (b) The person or other entity shall have the opportunity to resolve the dispute with the department  
5 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 dispute to  
7 the dispute resolution office.

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

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

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

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

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

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

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

20 (5) The department shall:

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

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

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

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

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

30 (b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and

1 conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

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

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

7

8 **Section 3.** Section 15-1-402, MCA, is amended to read:

9 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a  
10 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay  
11 under written protest that portion of the property tax or fee protested.

12 (b) The protested payment must:

13 (i) be made to the officer designated and authorized to collect it;

14 (ii) specify the grounds of protest; and

15 (iii) not exceed the difference between the payment for the immediately preceding tax year and the  
16 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,  
17 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

18 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to  
19 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested  
20 payment for each county in which a protested payment was made. ~~By November 1 of each year, the department~~  
21 ~~shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central~~  
22 ~~assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.~~

23 (2) A person appealing a property tax or fee pursuant to chapter 2 or 15, including a person appealing  
24 a property tax or fee on property that is annually assessed by the department or subject to central assessment  
25 pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If  
26 the tax or fee is not paid under protest when due, the appeal or mediation under [section 1] may continue but a  
27 tax or fee may not be refunded as a result of the appeal or mediation.

28 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion  
29 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced  
30 to recover the subsequent installment. The determination of the action or suit commenced to recover the first

1 installment portion paid under protest determines the right of the party paying the subsequent installment to have  
2 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not  
3 paid by the taxpayer plus interest from the date the subsequent installment was due.

4 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county  
5 or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to  
6 be designated as a protest fund and must be retained in the protest fund until the final determination of any action  
7 or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other  
8 local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money  
9 of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision  
10 creating the special protest fund does not apply to any payments made under protest directly to the state.

11 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to  
12 15-23-101 and any protested taxes in a school district that has elected to waive its right to protested taxes in a  
13 specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as  
14 provided in subsections (4)(b)(ii) through (4)(b)(iv).

15 (ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant  
16 to 15-10-108 in the state special revenue fund to the credit of the university system, and the other 50% of the  
17 funds levied pursuant to 15-10-108 must be deposited in a centrally assessed property tax state special revenue  
18 fund.

19 (iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited  
20 in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special  
21 revenue fund.

22 (iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be  
23 deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest  
24 state special revenue fund.

25 (5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction  
26 affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains  
27 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all  
28 or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year  
29 of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund  
30 does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except

1 the first-year protest amount.

2 (b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property  
3 that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest remains  
4 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all  
5 or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction  
6 to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding  
7 in a subsequent year any or all of the payments to which it is entitled.

8 (c) The provisions of subsections (5)(a) and (5)(b) do not apply to a school district that has elected to  
9 waive its right to its portion of protested taxes for that specific year as provided in 15-1-409.

10 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not  
11 commenced within the time specified or if the action is commenced and finally determined in favor of the  
12 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the  
13 protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed  
14 property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax  
15 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses  
16 charged to the local government units.

17 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the  
18 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the  
19 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to  
20 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or  
21 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment  
22 under protest. The department shall refund from the school district property tax protest state special revenue fund  
23 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district  
24 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the  
25 amount available for the refund in the school district property tax protest state special revenue fund is insufficient  
26 to refund the property tax payments, the department shall pay the remainder of the refund from the state general  
27 fund.

28 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund  
29 provided for in 17-6-203 for the applicable period.

30 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer

1 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

2 (d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the  
3 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which  
4 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the  
5 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction  
6 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state  
7 treasurer as provided in subsection (6)(b).

8 (ii) For an adverse protest action against the state for centrally assessed property, the department shall  
9 refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and  
10 from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an  
11 adverse protested action from the centrally assessed property tax state special revenue fund may not exceed  
12 the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)  
13 and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred  
14 to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested  
15 action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments  
16 to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder  
17 of the refund proportionally from the state general fund and from money deposited in the state special revenue  
18 fund levied pursuant to 15-10-108.

19 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is  
20 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The  
21 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of  
22 payment under protest until the date of final resolution of the protest and at the combined rate of the federal  
23 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,  
24 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

25 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds  
26 from one or more of the following sources:

27 (a) imposition of a property tax to be collected by a special tax protest refund levy;

28 (b) the general fund or any other funds legally available to the governing body; and

29 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving  
30 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or

1 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be  
 2 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

3 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is  
 4 not owed."

5

6 **Section 4.** Section 15-2-302, MCA, is amended to read:

7 **"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) A  
 8 person may appeal to the state tax appeal board a final decision of the department of revenue or an unsuccessful  
 9 mediation under [section 1] involving:

10 (a) property centrally assessed under chapter 23;

11 (b) the valuation of industrial property that is assessed annually by the department;

12 ~~(b)~~(c) classification of property as new industrial property;

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

14 ~~(d)~~(e) any other matter in which the appeal is provided by law.

15 (2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of  
 16 the department's final decision. The complaint must set forth the grounds for relief and the nature of relief  
 17 demanded. The board shall immediately transmit a copy of the complaint to the department.

18 (3) The department shall file with the board an answer within 30 days following filing of a complaint.

19 (4) The board shall conduct the appeal in accordance with the contested case provisions of the Montana  
 20 Administrative Procedure Act.

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

25

26 **Section 5.** Section 15-8-601, MCA, is amended to read:

27 **"15-8-601. Assessment revision -- conference for review.** (1) (a) Except as provided in subsection  
 28 (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped  
 29 assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property  
 30 provided that the property is under the ownership or control of the same person who owned or controlled it at the



1 time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments  
2 must be made within 10 years after the end of the calendar year in which the original assessment was or should  
3 have been made.

4 (b) Within the time limits set by 15-23-116, whenever the department discovers property subject to  
5 assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been  
6 omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who  
7 owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation,  
8 regardless of the ownership of the property at the time of the department's revised assessment.

9 (2) When the department proposes to revise the statement reported by the taxpayer under 15-8-301,  
10 the action of the department is subject to the notice and conference provisions of this section. Revised  
11 assessments of centrally assessed property and industrial property that is assessed annually by the department  
12 are subject to review mediation pursuant to ~~15-4-211~~ [section 1].

13 (3) (a) Notice of revised assessment pursuant to this section must be made by the department by  
14 postpaid letter addressed to the person interested within 10 days after the revised assessment has been made.  
15 If the property is locally assessed, the notice must include the opportunity for a conference on the matter, at the  
16 request of the person interested, within 30 days after notice is given.

17 (b) An assessment revision review conference is not a contested case as defined in the Montana  
18 Administrative Procedure Act. The department shall keep minutes in writing of each assessment revision review  
19 conference, and the minutes are public records.

20 (c) Following an assessment revision review conference or expiration of the opportunity for a conference,  
21 the department shall order an assessment that it considers proper. Any party to the conference aggrieved by the  
22 action of the department or a taxpayer who does not request a conference may appeal to the county tax appeal  
23 board within 30 days of receipt of the revised assessment or the department's assessment made pursuant to the  
24 conference.

25 (4) The department shall enter in the property tax record all changes and corrections made by it."  
26

27 **Section 6.** Section 15-15-102, MCA, is amended to read:

28 **"15-15-102. Application for reduction in valuation.** (1) The valuation of property may not be reduced  
29 by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written  
30 application for reduction with the county tax appeal board. The application for reduction may be obtained at the

1 local appraisal office or from the county tax appeal board. The completed application must be submitted to the  
 2 county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and  
 3 recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from  
 4 the county clerk and recorder. The application must be submitted on or before the later of:

5 (a) the first Monday in June; or

6 (b) 30 days after receiving either a notice of classification and appraisal or determination after review  
 7 under 15-7-102(3) from the department; or

8 (c) 60 days after mediation conducted pursuant to [section 1] has terminated unsuccessfully if the  
 9 objector does not elect to file an action in district court or make a direct appeal to the state tax appeal board as  
 10 provided in 15-2-302, whichever is later.

11 (2) If the department's determination after review is not made in time to allow the county tax appeal board  
 12 to review the matter during the current tax year, the appeal must be reviewed during the next tax year, but the  
 13 decision by the county tax appeal board is effective for the year in which the request for review was filed with the  
 14 department. The application must state the post-office address of the applicant, specifically describe the property  
 15 involved, and state the facts upon which it is claimed the reduction should be made."

16

17 **Section 7.** Section 15-23-102, MCA, is amended to read:

18 **"15-23-102. Independent appraisal option.** (1) The department of revenue may have property subject  
 19 to the provisions of this chapter assessed by a qualified independent appraiser when both the department and  
 20 the owner of the property subject to the assessment agree in writing:

21 (a) on a particular independent appraiser to do an appraisal;

22 (b) to share the costs of the independent appraisal; and

23 (c) to accept the results of the appraisal.

24 (2) Appeals from the decision of the department ~~pursuant to 15-1-211~~ are subject to mediation under  
 25 [section 1] and may be taken to the county tax appeal board, state tax appeal board, or district court."

26

27 **Section 8.** Section 15-23-104, MCA, is amended to read:

28 **"15-23-104. Failure to file -- estimate by department -- penalty.** (1) If any person fails to file a report  
 29 or return within the time established in 15-23-103 or by a later date approved by the department, the department  
 30 shall estimate the value of the property that should have been reported on the basis of the best available

1 information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506,  
 2 and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107.  
 3 In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the  
 4 department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena  
 5 a person or the person's agent as specified in 15-1-302. An assessment pursuant to parts 5, 7, and 8 of this  
 6 chapter based on estimated value or imputed value is subject to ~~review~~ mediation under ~~15-1-211~~ [section 1].  
 7 For each month or part of a month that a report is delinquent, the department shall impose and collect a \$25  
 8 penalty, with the total not to exceed \$200, and shall deposit the penalty to the credit of the general fund. The  
 9 department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is  
 10 delinquent. The department shall notify the county treasurer of each affected county of the amount of the penalty,  
 11 and the treasurer shall collect the penalty in the same manner as the taxes to which the penalty applies.

12 (2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the  
 13 tax due for each month or part of a month that the report is delinquent."  
 14

15 **Section 9.** Section 15-24-3112, MCA, is amended to read:

16 **"15-24-3112. Certification.** (1) (a) Upon application by a taxpayer, the department of environmental  
 17 quality shall determine whether a facility or equipment qualifies for a tax abatement under 15-24-3111 or rules  
 18 adopted under 15-24-3116. If the department determines that a facility or equipment qualifies for abatement or  
 19 a classification, it shall issue a certification of eligibility.

20 (b) An application for certification must be made on forms available from the department.

21 (c) Certification remains in effect only as long as substantial compliance with this part continues.

22 (2) The department of environmental quality shall identify and track compliance with this part in the use  
 23 of certified property. The department may revoke a certification for failure to maintain substantial compliance with  
 24 eligibility requirements in 15-24-3111 or with rules adopted pursuant to 15-24-3116. Revocation of a certificate  
 25 must be reported to the department of revenue within 30 days of revocation.

26 (3) If a taxpayer's certification is revoked, the taxpayer forfeits the abatement or classification under  
 27 15-6-157 or 15-6-158. Upon revocation, the property must be assessed at 100% of its taxable value beginning  
 28 on January 1 of the year or years for which the certification is revoked. Any remaining abatement must be  
 29 forfeited. The taxpayer is immediately liable for any additional taxes, penalty, and interest resulting from the  
 30 revocation.

1 (4) A taxpayer that has forfeited any portion of its abatement because of revocation may not reapply for  
2 an abatement under this part.

3 (5) A taxpayer aggrieved by a determination made by the department of environmental quality or the  
4 department of revenue has the right to the review procedures in 15-1-211, to mediation under [section 1], or to  
5 a hearing under Title 2, chapter 4, part 6."  
6

7 **Section 10.** Section 26-1-813, MCA, is amended to read:

8 **"26-1-813. Mediation -- confidentiality -- privilege -- exceptions.** (1) Mediation means a private,  
9 confidential, informal dispute resolution process in which an impartial and neutral third person, the mediator,  
10 assists disputing parties to resolve their differences. In the mediation process, decisionmaking authority remains  
11 with the parties and the mediator does not have authority to compel a resolution or to render a judgment on any  
12 issue. A mediator may encourage and assist the parties to reach their own mutually acceptable settlement by  
13 facilitating an exchange of information between the parties, helping to clarify issues and interests, ensuring that  
14 relevant information is brought forth, and assisting the parties to voluntarily resolve their dispute.

15 (2) Except upon written agreement of the parties and the mediator, mediation proceedings must be:

- 16 (a) confidential;  
17 (b) held without a verbatim record; and  
18 (c) held in private.

19 (3) A mediator's files and records, with the exception of signed, written agreements, are closed to all  
20 persons unless the parties and the mediator mutually agree otherwise. Except as provided in subsection (5), all  
21 mediation-related communications, verbal or written, between the parties or from the parties to the mediator and  
22 any information and evidence presented to the mediator during the proceedings are confidential. The mediator's  
23 report, if any, and the information or recommendations contained in it, with the exception of a signed, written  
24 agreement, are not admissible as evidence in any action subsequently brought in any court of law or before any  
25 administrative agency and are not subject to discovery or subpoena in any court or administrative proceeding  
26 unless all parties waive the rights to confidentiality and privilege.

27 (4) Except as provided in subsection (5), the parties to the mediation and a mediator are not subject to  
28 subpoena by any court or administrative agency and may not be examined in any action as to any communication  
29 made during the course of the mediation proceeding without the consent of the parties to the mediation and the  
30 mediator.

1 (5) The confidentiality and privilege provisions of this section do not apply to information revealed in a  
2 mediation if disclosure is:

3 (a) required by any statute;

4 (b) agreed to by the parties and the mediator in writing, whether prior to, during, or subsequent to the  
5 mediation; or

6 (c) necessary to establish a claim or defense on behalf of the mediator in a controversy between a party  
7 to the mediation and the mediator.

8 (6) ~~Nothing in this section prohibits a~~ A mediator is prohibited from conveying information from one party  
9 to another during the mediation; unless a the source party objects to disclosure specifically allows the conveyance  
10 of the information."

11  
12 **NEW SECTION. Section 11. Codification instruction.** [Section 1] is intended to be codified as an  
13 integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [section 1].

14 - END -