

HOUSE BILL NO. 737

INTRODUCED BY T. WOODS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN EXCESS PROFITS TAX ON PUBLIC UTILITIES  
5 THAT GENERATE PROFITS GREATER THAN AN ESTABLISHED RETURN ON EQUITY; ESTABLISHING A  
6 RATE FOR THE TAX; PROVIDING THAT THE TAX REVENUE BE USED FOR LOW-INCOME ENERGY  
7 ASSISTANCE; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROHIBITING THE TAX FROM  
8 AUTOMATICALLY BEING PASSED ON TO RATEPAYERS; PROVIDING THE DEPARTMENT OF REVENUE  
9 WITH RULEMAKING AUTHORITY; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING  
10 AUTHORITY; AMENDING SECTIONS 15-30-2618, 15-31-114, 15-31-511, AND 69-3-308, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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15 **NEW SECTION. Section 1. Excess profits tax imposed on public utilities.** (1) There is a tax on the  
16 excess profits of public utilities, calculated as provided in subsections (2) and (3).

17 (2) (a) A public utility is considered to have excess profits when the public utility's return on equity as  
18 established in an annual report in accordance with [section 2(2)] is greater than 9%.

19 (b) The department of revenue, in cooperation with the public service commission, shall adopt rules  
20 necessary for the uniform determination of excess profits.

21 (3) (a) The tax on excess profits is an amount equal to 75% of the revenue that is over 9%.

22 (b) The tax on excess profits must be calculated on a return to be provided by the department. The return  
23 must be filed with and the tax must be paid to the department based on a timeline determined by the department.

24 (4) A public utility may not recover the excess profits tax collected under [sections 1 through 10] in  
25 customer rates or in accordance with 69-3-308.

26 (5) For the purposes of this section, "public utility" means any public utility regulated by the commission  
27 pursuant to Title 69, chapter 3, that provides electricity or natural gas for sale to customers and that has  
28 restructured in accordance with Title 69, chapter 8.

29  
30 **NEW SECTION. Section 2. Deposit of tax -- public service commission reporting.** (1) The excess

1 profits tax collected under [sections 1 through 10] must, after providing an allowance for payment of refunds and  
2 overpayments, be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(b).

3 (2) (a) A public utility shall file an annual report with the public service commission to establish an annual  
4 return on equity.

5 (b) After the commission determines the annual return on equity established in subsection (2)(a), the  
6 commission shall provide the determination to the department of revenue.

7 (c) The commission may adopt rules to administer this subsection (2).

8

9 **NEW SECTION. Section 3. Returns -- payment -- authority of department.** (1) (a) A public utility  
10 required to collect and pay to the department the tax imposed by [sections 1 through 10] shall keep records,  
11 render statements, make returns, and comply with the provisions of [sections 1 through 10] and the rules  
12 prescribed by the department. Each return or statement must include the information required by the rules of the  
13 department.

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

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

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

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

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

25 (v) administer oaths or affirmations.

26 (2) Pursuant to rules established by the department, returns may be computer-generated and  
27 electronically filed.

28

29 **NEW SECTION. Section 4. Examination of return -- adjustments -- delivery of notices and**  
30 **demands.** (1) If the department determines that the amount of tax due is different from the amount reported, the

1 amount of tax computed on the basis of the examination conducted pursuant to [section 3] constitutes the tax to  
2 be paid.

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

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

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

13 (b) served on the taxpayer personally.

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

16  
17 **NEW SECTION. Section 5. Penalties and interest for violation.** (1) (a) A public utility who fails to file  
18 a return as required by [section 1] must be assessed a penalty as provided in 15-1-216. The department may  
19 waive the penalty as provided in 15-1-206.

20 (b) A public utility who fails to file the return required by [section 1] and to pay the tax before the due date  
21 must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant  
22 to 15-1-206.

23 (2) A public utility who purposely fails to pay the tax when due must be assessed an additional penalty  
24 as provided in 15-1-216.

25  
26 **NEW SECTION. Section 6. Authority to collect delinquent taxes.** (1) (a) The department shall collect  
27 taxes that are delinquent as determined under [sections 1 through 10].

28 (b) If a tax imposed by [sections 1 through 10] or any portion of the tax is not paid when due, the  
29 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

30 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has

1 expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the  
2 state, except wages subject to the provisions of 25-13-614 and retirement benefits.

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

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

7  
8 **NEW SECTION. Section 7. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or  
9 delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the return and  
10 tax were originally due.

11 (2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the  
12 deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216  
13 must be added to the amount of the deficiency.

14  
15 **NEW SECTION. Section 8. Limitations.** (1) Except in the case of a public utility who purposely or  
16 knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of  
17 [sections 1 through 10], a deficiency may not be assessed or collected with respect to a month or quarter for  
18 which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally  
19 served on the taxpayer within 5 years from the date on which the return was filed. For purposes of this section,  
20 a return filed before the last day prescribed for filing is considered to be filed on the last day.

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

24  
25 **NEW SECTION. Section 9. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as a  
26 result of overpayment of taxes collected under [sections 1 through 10] must be filed within 5 years of the date on  
27 which the return was due, without regard to any extension of time for filing.

28 (2) (a) Interest on an overpayment must be paid or credited at the same rate as the interest rate charged  
29 on unpaid taxes as provided in 15-1-216.

30 (b) Except as provided in subsection (2)(c), interest must be paid from the date on which the return was

1 due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the  
 2 processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary  
 3 information.

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

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

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

7

8 **NEW SECTION. Section 10. Administration -- rules.** The department shall:

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

10 (2) cause to be prepared and distributed forms and information that may be necessary to administer the  
 11 provisions of [sections 1 through 10]; and

12 (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of  
 13 [sections 1 through 10].

14

15 **Section 11.** Section 15-30-2618, MCA, is amended to read:

16 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
 17 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided  
 18 by law, it is unlawful to divulge or make known in any manner:

19 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
 20 return required under this chapter or any other information secured in the administration of this chapter; or

21 (b) any federal return or federal return information disclosed on any return or report required by rule of  
 22 the department or under this chapter.

23 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce  
 24 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or  
 25 proceeding:

26 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

27 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes  
 28 when the reports or facts shown by the reports are directly involved in the action or proceedings.

29 (b) The court may require the production of and may admit in evidence only as much of the reports or  
 30 of the facts shown by the reports as are pertinent to the action or proceedings.

1 (3) This section does not prohibit:

2 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return  
3 or report filed in connection with the taxpayer's tax;

4 (b) the publication of statistics classified to prevent the identification of particular reports or returns and  
5 the items of particular reports or returns; or

6 (c) the inspection by the attorney general or other legal representative of the state of the report or return  
7 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom  
8 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

9 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to  
10 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
11 separately on the same return. The information being provided to the spouse or reported on the return, including  
12 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and  
13 the taxpayer filed the return using a joint filing status for that tax year.

14 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the  
15 department orders them to be destroyed.

16 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
17 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
18 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
19 case of a former officer or employee, for 1 year after conviction.

20 (7) This section may not be construed to prohibit the department from providing taxpayer return  
21 information and information from employers' payroll withholding reports to:

22 (a) the department of labor and industry to be used for the purpose of investigation and prevention of  
23 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

24 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,  
25 and abuse under the workers' compensation program.

26 (8) The department may permit the commissioner of internal revenue of the United States or the proper  
27 officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer  
28 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
29 abstract of the return of income of any individual or supply the officer with information concerning an item of  
30 income contained in a return or disclosed by the report of an investigation of the income or return of income of

1 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
2 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
3 administration of this chapter.

4 (9) On written request to the director or a designee of the director, the department shall furnish:

5 (a) to the department of justice, all information necessary to identify those persons qualifying for the  
6 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of  
7 justice to administer the provisions of 61-5-105;

8 (b) to the department of public health and human services, information acquired under 15-30-2616,  
9 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public  
10 assistance fraud and abuse, provided notice to the applicant has been given;

11 (c) to the department of labor and industry:

12 (i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the  
13 unemployment compensation and workers' compensation programs, information on whether a taxpayer who is  
14 the subject of an ongoing investigation by the department of labor and industry is an employee, an independent  
15 contractor, or self-employed; and

16 (ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer and  
17 apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;

18 (d) to the department of fish, wildlife, and parks, specific information that is available from income tax  
19 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and  
20 fishing licenses;

21 (e) to the board of regents, information required under 20-26-1111;

22 (f) to the legislative fiscal analyst and the office of budget and program planning, individual income tax  
23 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget  
24 and program planning must be the same as the information provided to the legislative fiscal analyst.

25 (g) to the department of transportation, farm income information based on the most recent income tax  
26 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been  
27 given as provided in 15-70-430. The information obtained by the department of transportation is subject to the  
28 same restrictions on disclosure as are individual income tax returns.

29 (h) to the department of commerce, tax information about a taxpayer whose debt is assigned to the  
30 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information

1 provided to the department of commerce must be used for the purposes of preventing and detecting fraud or  
 2 abuse and determining eligibility for grants or loans.

3 (i) to the public service commission, information necessary for the implementation of [sections 1 through  
 4 10]; and

5 ~~(i)~~(j) to the superintendent of public instruction, information required under 20-9-905. (Subsection ~~(9)~~(i)  
 6 ~~(9)~~(j) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

7

8 **Section 12.** Section 15-31-114, MCA, is amended to read:

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

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

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

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

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

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

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

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

10 (A) taxes imposed by this part;

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

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

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

16 (E) taxes imposed on the excess profits of public utilities as provided in [section 1].

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

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

20 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify  
21 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

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

24 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the  
25 annuity is a qualified charitable gift annuity as defined in 33-20-701.

26 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,  
27 81-7-118, or 81-7-201.

28 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market  
29 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological  
30 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited

1 postsecondary school located in Montana if:

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

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

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

8 (3) In the case of a regulated investment company or a fund of a regulated investment company, as  
9 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that  
10 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section  
11 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,  
12 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that  
13 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of  
14 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue  
15 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A  
16 regulated investment company is not allowed a deduction for dividends received as defined in sections 243  
17 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be  
18 amended or renumbered."

19

20 **Section 13.** Section 15-31-511, MCA, is amended to read:

21 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with  
22 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

23 (a) the amount of income or any particulars set forth or disclosed in any return or report required under  
24 this chapter or any other information relating to taxation secured in the administration of this chapter; or

25 (b) any federal return or information in or disclosed on a federal return or report required by law or rule  
26 of the department under this chapter.

27 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may  
28 not be ordered to produce any of them or evidence of anything contained in them in any administrative  
29 proceeding or action or proceeding in any court, except:

30 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

1 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of  
2 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

3 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit  
4 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the  
5 action or proceeding.

6 (3) This section does not prohibit:

7 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer  
8 who filed the return or report or to the taxpayer's authorized representative;

9 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,  
10 reports, or items from returns or reports;

11 (c) the inspection of returns and reports by the attorney general or other legal representative of the state  
12 in the course of an administrative proceeding or litigation under this chapter;

13 (d) access to information under subsection (4);

14 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of  
15 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer  
16 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of  
17 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an  
18 investigation of the income or return of a corporation. The director of revenue may not furnish that information  
19 to a person representing the United States or another state unless the United States or the other state grants  
20 substantially similar privileges to an officer of this state charged with the administration of this chapter.

21 (4) On written request to the director or a designee of the director, the department shall:

22 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to  
23 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection  
24 (1);

25 (b) provide corporate income tax and alternative corporate income tax information, including any  
26 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided  
27 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.  
28 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject  
29 to the same restrictions on disclosure outside those offices as provided in subsection (1).

30 (c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to

1 the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The  
 2 information provided to the department of commerce must be used for the purposes of preventing and detecting  
 3 fraud or abuse and determining eligibility for grants or loans.

4 (d) furnish to the superintendent of public instruction information required under 20-9-905;

5 (e) exchange with the department of labor and industry taxpayer and apprentice information necessary  
 6 to implement 15-30-2357, 15-31-173, and 39-6-109; and

7 (f) exchange with the public service commission information necessary to implement [sections 1 through  
 8 10].

9 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or  
 10 public employee is convicted of violating this section, the person is dismissed from office or employment and may  
 11 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case  
 12 of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,  
 13 2023--sec. 33, Ch. 457, L. 2015.)"

14

15 **Section 14.** Section 69-3-308, MCA, is amended to read:

16 **"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate**  
 17 **adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill the  
 18 amount of state and local taxes and fees assessed against the public utility that the customer is paying.

19 (2) (a) (i) ~~{Except as provided in [15-72-601,} and [section 1(4)].~~ the commission shall allow a public  
 20 utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and  
 21 local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must  
 22 include:

23 (A) adjustments for the net change in federal and state income tax liability caused by the deductibility  
 24 of state and local taxes and fees;

25 (B) retroactive tax adjustments; and

26 (C) adjustments related to the resolution of property taxes paid under protest.

27 (ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases  
 28 and decreases.

29 (b) The amended rates must automatically go into effect on January 1 following the date of change in  
 30 taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

1 (c) The amended rate schedule must be filed with the commission on or before the effective date of the  
2 change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission  
3 may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address  
4 any errors or omissions including, if necessary, any refunds due customers.

5 (d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on  
6 the part of the commission.

7 (e) A public utility may challenge an order issued by the commission under subsection (2)(c) in  
8 accordance with the provisions of 69-3-401 through 69-3-405. (Bracketed language terminates June 30,  
9 2019--sec. 21(3), Ch. 387, L. 2017.)"

10  
11 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 10] are intended to be  
12 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 10].

13  
14 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

15  
16 **NEW SECTION. Section 17. Applicability.** [This act] applies to sales of electricity for the calendar  
17 quarter beginning on or after July 1, 2019.

18 - END -