

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SENATE BILL NO. 31

INTRODUCED BY M. SPRAGUE

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE GENERAL FUND SHORTFALL IN REVENUE BY IMPOSING A SEASONAL, STATEWIDE, GENERAL RETAIL SALES TAX AND USE TAX; ESTABLISHING CERTAIN EXEMPTIONS FROM THE SALES TAX AND USE TAX; PROVIDING FOR THE NONTAXABILITY OF CERTAIN TRANSACTIONS THAT ARE NOT RETAIL SALES; PROVIDING FOR THE ADMINISTRATION OF THE SALES TAX AND USE TAX; CREATING A SALES TAX AND USE TAX ACCOUNT; ALLOCATING FOR APPROPRIATION A PORTION OF THE SALES TAX AND USE TAX REVENUE COLLECTIONS TO REIMBURSE LOCAL GOVERNMENT TAXING JURISDICTIONS FOR CERTAIN REDUCTIONS IN PROPERTY TAXES; ALLOCATING FOR APPROPRIATION A PORTION OF SALES TAX AND USE TAX REVENUE COLLECTIONS TO REDUCE PROPERTY TAX LEVIES FOR STATE EQUALIZATION AID TO SCHOOLS; ALLOCATING FOR APPROPRIATION A PORTION OF THE SALES TAX AND USE TAX REVENUE COLLECTIONS TO BE DISTRIBUTED TO CERTAIN INDIVIDUAL INCOME TAXPAYERS; PROVIDING FOR THE TRANSITION TO THE SEASONAL APPLICATION OF THE SALES TAX AND USE TAX; AMENDING SECTIONS 15-1-112, 15-10-420, AND 20-9-360, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

WHEREAS, the 57th Montana Legislature is currently confronted with fiscal challenges rarely encountered previously by the state; and

WHEREAS, without bold and decisive legislative action being taken as soon as possible, the 58th Legislature and its successors will be confronted with additional and even more daunting fiscal challenges; and

WHEREAS, there are very good reasons to ask and expect visitors to Montana to help bear the costs of certain governmental services provided in this state; and

WHEREAS, the imposition of a seasonal, statewide, general retail sales tax is a responsible, calibrated action that will address the aforementioned factors and others.

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

NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 through 63], unless the context



1 requires otherwise, the following definitions apply:

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

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

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

7 (b) does not mean or include:

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

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

11 (iii) chewing gum;

12 (iv) candies or confectioneries; or

13 (v) seeds and plants to grow food.

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

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

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

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

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

25 (b) The term does not include construction.

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

27 (a) performed by a person licensed to practice a health care profession or health care occupation
28 licensed under Title 37 or licensed as a mental health professional or licensed under Title 37, chapter 35, as an
29 addiction counselor as a regular part of the person's business activities; and

30 (b) applied externally or internally to the human body or mind for the diagnosis, cure, mitigation,

1 treatment, or prevention of disease.

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

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

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

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

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

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

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

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

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

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

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

30 (d) Sales price includes the total commissions or fees derived from the business of buying, selling, or

1 promoting the purchase, sale, or lease, as an agent or broker on a commission or fee basis, of any property,
2 service, stock, bond, or security.

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

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

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

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

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

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

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

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

17

18 **NEW SECTION. Section 2. Imposition and rate of sales tax and use tax -- exceptions.** (1) Except
19 as provided in subsection (5), a sales tax of 4% is imposed from May 1 through October 31 of each year on all
20 sales of property or services. The tax is imposed on the purchaser and must be collected by the seller and paid
21 to the department by the seller. The seller holds all taxes collected in trust for the state. The tax must be applied
22 to the sales price.

23 (2) For the privilege of using property in this state from May 1 through October 1 of each year, there is
24 imposed on the person using property a use tax equal to 4% of the value of the property that was:

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

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

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

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

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

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

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

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

15

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

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

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

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

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

29

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

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

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

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

7

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

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

13

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

18 (2) (a) A person who solicits or exploits the consumer market in this state by regularly and systematically
19 performing an activity within this state and whose sales are not subject to the sales tax shall, to the extent
20 allowed by federal law, collect the use tax from the purchaser and pay the tax collected to the department.

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

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

25 (ii) canvassing;

26 (iii) demonstrating;

27 (iv) collecting money;

28 (v) warehousing or storing merchandise;

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

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

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

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

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

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

15 (3) A person engaging in business in this state shall, before making any sales, obtain a seller's permit
16 as provided in [section 39] and at the time of making a sale, whether within or outside of the state, collect the
17 tax imposed by [section 2] from the purchaser and give to the purchaser a receipt, in the manner and form
18 prescribed by rule, for the tax paid.

19 (4) The department may authorize the collection of the tax imposed by [section 2] by any retailer who
20 does not maintain an office or other place of business in this state but who, to the satisfaction of the department,
21 is in compliance with the law. When authorized, the person shall collect the tax upon all property and services
22 that, to the person's knowledge, are for use within this state and subject to taxation under [sections 1 through
23 63].

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

27 (6) A person selling property or services to residents of this state, when the property is delivered to a
28 location within this state or when the use of the service occurs within this state, shall, upon request by the
29 department, provide a list of all sales to the department. The list must include the name and address of each
30 purchaser and the amount of each sale. The department may pay to any person furnishing a list of sales or

1 purchasers the reasonable costs of reproducing the list.

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

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

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

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

8

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

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

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

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

20

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

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

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

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

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

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

29 (e) a signature line for the purchaser.

30 (3) The department shall adopt rules to provide procedures for application for and provision of a

1 nontaxable transaction certificate to a person engaging in business in this state prior to [the applicability date
2 of this section]. The rules adopted by the department must ensure that each person engaging in business in this
3 state prior to [the applicability date of this section] who has applied in a timely fashion is issued a nontaxable
4 transaction certificate prior to [the applicability date of this section].

5

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

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

13

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

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

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

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

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

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

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

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

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

29

30 **NEW SECTION. Section 11. Exemption -- special supplemental food program for women,**

1 **infants, and children.** The sale of food purchased under the special supplemental food program for women,
2 infants, and children as specified in 42 U.S.C. 1786, as amended, is exempt from the sales tax and use tax.

3

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

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

8 (a) medical services;

9 (b) any service reasonably related to the delivery of a medical service provided by or at:

10 (i) a health care facility as defined in 50-5-101; or

11 (ii) the office of a health care professional or a person engaged in a health care occupation.

12

13 NEW SECTION. **Section 13. Exemption -- wages.** Except as provided in [sections 1 through 63],
14 wages, salaries, commissions, and any other form of remuneration for personal services are exempt from the
15 sales tax if paid by an employer to an employee.

16

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

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

23 (2) Sales from feeding, pasturing, penning, handling, or training livestock prior to sale are exempt from
24 the sales tax and use tax.

25

26 NEW SECTION. **Section 15. Exemption -- gambling and amusement services.** Except as provided
27 in subsection (2), all gambling or amusement services that are conducted or licensed pursuant to Title 23,
28 chapter 4, 5, 6, or 7, are exempt from the sales tax and use tax.

29 (2) The repair or maintenance of a service, product, or game licensed pursuant to Title 23, chapter 4,
30 5, 6, or 7, is not exempt from the sales tax and use tax.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

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

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

- (1) interest on money loaned or deposited;
- (2) dividends or interest from stocks, bonds, or securities;
- (3) proceeds from the sale of stocks, bonds, or securities; and
- (4) commissions or fees derived from the business of buying, selling, or promoting any stock, bond, or security.

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

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

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

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

1

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

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

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

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

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

15

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

20

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

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

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

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

27 (b) radio or television;

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

29 (d) handbill; or

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

1

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

4

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

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

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

10 (c) seeds;

11 (d) Christmas trees;

12 (e) roots;

13 (f) bulbs;

14 (g) soil conditioners;

15 (h) fertilizers;

16 (i) insecticides;

17 (j) insects used to control weeds or the population of other insects;

18 (k) fungicides;

19 (l) weedicides;

20 (m) herbicides; or

21 (n) water for commercial irrigation.

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

23

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

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

29

30 **NEW SECTION. Section 27. Exemption -- sale of certain services of mining or manufacturing.**

1 The sale or use of the service of mining, manufacturing, combining, or processing components or materials,
2 including minerals, is exempt from the sales tax and use tax.

3

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

- 6 (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller; and
- 7 (2) the buyer resells the property either by itself or in combination with other property in the ordinary
8 course of business and the property will be subject to the sales tax and use tax.

9

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

- 12 (1) the sale is made to a person who delivers a nontaxable transaction certificate;
- 13 (2) the buyer resells the service and separately states the value of the service purchased in the charge
14 for the service in the subsequent sale; and
- 15 (3) the subsequent sale is in the ordinary course of business and subject to the sales tax.

16

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

- 19 (a) the buyer delivers a nontaxable transaction certificate to the seller; and
- 20 (b) the buyer incorporates the property as an ingredient or component part of the product in the
21 business of mining or manufacturing; or
- 22 (c) the buyer uses the property to extract a mineral and the property is required to be abandoned in
23 place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently
24 ceases.

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

27

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

- 1 (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;
- 2 (2) the buyer is engaged in a business deriving more than 50% of its receipts from leasing or selling
- 3 property of the type leased; and
- 4 (3) the buyer does not use the property in any manner other than holding it for lease or sale or leasing
- 5 or selling it, either by itself or in combination with other property, in the ordinary course of business.

6

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

- 10 (1) the lease is made to a lessee who delivers a nontaxable transaction certificate; and
- 11 (2) the lessee does not use the property in any manner other than for subsequent lease in the ordinary
- 12 course of business.

13

14 **NEW SECTION. Section 33. Nontaxability -- sale or lease of real property or improvements and**
 15 **lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

- 16 (b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.
- 17 (2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or
- 18 rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

19

20 **NEW SECTION. Section 34. Nontaxability -- transactions in interstate commerce -- certain**
 21 **property used in interstate commerce -- exception.** (1) A transaction in interstate commerce is nontaxable
 22 to the extent that the imposition of the sales tax or use tax would be unlawful under federal law.

- 23 (2) The following are also nontaxable:
- 24 (a) transmitting messages or conversations by radio when the transmissions originate from a point
- 25 outside this state and are received at a point within this state; and
- 26 (b) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf
- 27 of a national or regional seller or an advertiser that does not have its principal place of business in this state or
- 28 that is not incorporated under the laws of this state.
- 29 (3) The sale of a vehicle with a gross vehicle weight in excess of 46,000 pounds used exclusively in
- 30 interstate commerce is nontaxable.

1

2 NEW SECTION. **Section 35. Nontaxability -- certain intrastate transportation and services in**
3 **interstate commerce.** (1) The transport of persons or property from one point within this state to another point
4 within this state is not taxable if the persons or property, including any reasonably necessary services, is being
5 transported in interstate or foreign commerce under a single contract.

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

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

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

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

11

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

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

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

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

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

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

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

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

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

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

1 taxable.

2

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

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

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

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

10

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

16

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

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

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

28

29 **NEW SECTION. Section 40. Permit application -- requirements -- place of business -- form.**

30 (1) (a) A person desiring to engage in the business of making retail sales or providing services in Montana shall

1 file with the department an application for a permit. If the person has more than one location in which the person
2 maintains an office or other place of business, an application may include multiple locations.

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

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

8 (2) Each person required to file a return under [sections 1 through 63] is required to file an application
9 for a permit.

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

15

16 **NEW SECTION. Section 41. Revocation or suspension of permit -- hearing -- notice -- appeal.**

17 (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend
18 any permit held by a person who fails to comply with the provisions of [sections 1 through 63].

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

22 (3) If a permit is revoked, the department may not issue a new permit except upon application
23 accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections
24 1 through 63]. The department may require security in addition to that authorized by [section 50] in an amount
25 reasonably necessary to ensure compliance with [sections 1 through 63] as a condition for the issuance of a new
26 permit to the applicant.

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

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

1

2 **NEW SECTION. Section 42. Improper use of subject of purchase obtained with nontaxable**
3 **transaction certificate -- penalty.** (1) If a purchaser who uses a nontaxable transaction certificate uses the
4 subject of the purchase for a purpose other than one allowed as nontaxable under [sections 1 through 63], the
5 use is considered a taxable sale as of the time of first use by the purchaser and the sales price is the price that
6 the purchaser paid. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in the
7 sales price the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the
8 entire amount of the sales price, without deduction of amounts previously received as rentals.

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

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

14

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

21

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

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

1 department considers the security inadequate or believes that the taxes can be collected more effectively in
2 another manner.

3 (3) An agent, canvasser, or employee of a retailer doing business in this state who does not possess
4 a seller's permit issued by the department may not sell, solicit orders for, or deliver any property or services in
5 Montana. If an agent, canvasser, or employee violates the provisions of [sections 1 through 63], the person is
6 subject to a fine of not more than \$100 for each separate transaction or event.

7

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

11

12 **NEW SECTION. Section 46. Permission to report on accrual basis -- application.** (1) A person
13 may not report or pay the sales tax or use tax on an accrual basis unless the person has applied to and received
14 written permission from the department.

15 (2) A person who has a seller's permit may apply to the department for permission to report and pay
16 the sales tax or use tax on an accrual basis.

17 (3) The application must be made on a form, prescribed by the department, that contains information
18 that the department may require.

19

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

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

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

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

1 (ii) a person who:

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

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

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

7 (4) (a) A person required to collect and pay to the department the taxes imposed by [sections 1 through
8 63] shall keep records, render statements, make returns, and comply with the provisions of [sections 1 through
9 63] and the rules prescribed by the department. Each return or statement must include the information required
10 by the rules of the department.

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

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

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

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

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

22 (v) administer oaths or affirmations.

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

25

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

NEW SECTION. Section 49. Vendor allowance. (1) A person filing a return under [section 47] may claim a monthly vendor allowance for each permitted location in the amount of 1.5% of the tax determined to be payable to the state or \$50 a month, whichever is less.

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 51. Examination of return -- adjustments -- delivery of notices and demands. (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 47] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must

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

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

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

10 (b) served personally upon the taxpayer.

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

13

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

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

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

30

1 **NEW SECTION. Section 53. Authority to collect delinquent taxes.** (1) (a) The department shall
2 collect taxes that are delinquent as determined under [sections 1 through 63].

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

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

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

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

12

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

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

19

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

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

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

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

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

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

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

9

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

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

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

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

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

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

22

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

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

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

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

29

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

1 If a corporation authorized to do business in this state and required to pay a tax imposed under [sections 1
2 through 63] fails to comply with any of the provisions of [sections 1 through 63] or any rule of the department,
3 the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the
4 corporation has failed to comply with specific statutory provisions or rules.

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

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

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

12

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

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

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

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

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

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

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

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

3

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

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

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

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

17

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

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

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

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

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

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

9

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

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

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

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

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

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

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

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

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

28 (b) if the motor vehicle is not a light vehicle subject to the provisions of 61-3-313 through 61-3-316 or
29 a vehicle described in [section 34(3)], the department shall determine an alternative valuation for the motor
30 vehicle.

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

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

6 **NEW SECTION. Section 63. Sales tax and use tax account -- allocation.** (1) There is within the state
7 treasury an account for sales tax and use tax money.

8 (2) All money collected under [sections 1 through 63] must be deposited into the account.

9 (3) There must be retained in the account the amounts necessary under [sections 1 through 63] to repay
10 overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in amount, and
11 pay any other refunds otherwise required. The amount determined to be necessary under this subsection must
12 be retained in the account regardless of allocations, transfers, or appropriations made under subsections (4) and
13 (5).

14 (4) After retaining the amount necessary for the purposes of subsection (3):

15 (a) for the fiscal year ending June 30, 2003, the first \$45 million or less deposited in the account is
16 transferred to the state general fund; and

17 (b) for fiscal years beginning after June 30, 2003, the first \$125 million or less deposited in the account
18 is transferred to the state general fund.

19 (5) (a) Whenever revenue remains in the account after the allowance provided for in subsection (3) and
20 the transfer provided for in subsection (4), the remainder is available for appropriation by the legislature to the
21 department for distribution as provided in subsection (5)(b).

22 (b) (i) If a county treasurer has insufficient funds from the levy imposed in 20-9-360 to reimburse local
23 government taxing jurisdictions pursuant to 15-1-112, the treasurer shall report the deficit to the department.

24 (ii) The department shall pay to the county treasurer the amount reported under subsection (5)(b)(i) from
25 funds appropriated for that purpose, including any funds appropriated under subsection (5)(a). The department
26 shall make the payments in June and December of each year.

27 (6) Whenever revenue remains in the account after the allowance provided for in subsection (3), the
28 transfer provided for in subsection (4), and the appropriation, if any, provided for in subsection (5), the remainder
29 must be used as follows:

30 (a) 50% is to be reserved for appropriation by the legislature as state equalization aid to the public

1 schools; and

2 (b) 50% is to be reserved for appropriation by the legislature for distribution as provided in [section 64].

3

4 **NEW SECTION. Section 64. Distribution of excess sales tax and use tax revenue.** (1) Beginning
5 January 1, 2004, and in each succeeding calendar year, the department of revenue shall distribute excess sales
6 tax and use tax revenue as appropriated by the legislature.

7 (2) As used in this section, "excess sales tax and use tax revenue" is the amount of revenue
8 appropriated by the legislature under [section 63(6)(b)].

9 (3) (a) Subject to subsection (3)(c), the department shall distribute, prior to July 1 of each year, excess
10 sales tax and use tax revenue to individual income taxpayers who filed a tax return for the immediately
11 preceding calendar year.

12 (b) The amount of each taxpayer's share of the excess sales tax and use tax revenue is equal to the
13 ratio that the taxpayer's individual income taxes paid for the preceding year bear to the total individual income
14 taxes paid for the preceding year multiplied by the excess sales tax and use tax revenue.

15 (c) The department may not distribute an individual taxpayer's share if the amount of the taxpayer's
16 share as determined under subsection (3)(b) is less than \$1.

17 (4) The department shall adopt rules to implement the provision of this section.

18

19 **Section 65.** Section 15-1-112, MCA, is amended to read:

20 **"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing**
21 **jurisdictions.** (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by June
22 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department of revenue shall
23 determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that
24 information to each county treasurer. The reimbursement amount must be determined for each local government
25 taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding
26 tax year. However, the reimbursement does not apply to property described in 15-6-138 that has a reduced tax
27 rate under 15-24-1402.

28 (2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection
29 (4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local
30 government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.

1 (b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the
2 amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in
3 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for
4 property described in 15-6-138 in the same jurisdiction.

5 (ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular
6 jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax
7 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
8 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
9 jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of
10 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
11 simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.

12 (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the
13 amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property
14 described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995
15 market value for property described in 15-6-138 in the same jurisdiction.

16 (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular
17 jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax
18 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
19 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
20 jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of
21 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
22 simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.

23 (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the
24 amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property
25 described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995
26 market value for property described in 15-6-138 in the same jurisdiction.

27 (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular
28 jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax
29 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
30 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the

1 jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of
2 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
3 simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.

4 (3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government
5 rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county
6 governments, incorporated city and town governments, consolidated county and city governments, tax increment
7 financing districts, local elementary and high school districts, local community college districts, miscellaneous
8 districts, and special districts. The term includes countywide mills levied for equalization of school retirement or
9 transportation.

10 (b) The term does not include county or state school equalization levies provided for in 20-9-331,
11 20-9-333, and 20-9-360.

12 (c) Each tax increment financing district must receive the benefit of the state mill on the incremental
13 taxable value of the district.

14 (4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
15 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a)
16 for all of the local government taxing jurisdictions in the county.

17 (5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
18 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the
19 local government taxing jurisdictions in the county, as determined by the department under subsection (2).

20 (6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
21 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local
22 government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for
23 tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department
24 under subsection (2).

25 (7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
26 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the
27 local government taxing jurisdictions in the county, as determined by the department under subsection (2).

28 (8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
29 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local
30 government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for

1 tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department
 2 under subsection (2).

3 (9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
 4 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the
 5 local government taxing jurisdictions in the county, as determined by the department under subsection (2).

6 (10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
 7 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local
 8 government taxing jurisdictions in the county, as determined by the department under subsection (2).

9 (11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
 10 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount
 11 determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined
 12 by the department under subsection (2).

13 (12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360
 14 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined
 15 in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the
 16 department under subsection (2).

17 (13) (a) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years must
 18 be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the
 19 following schedule:

20

21	Tax Year	Percentage of 1998
22		Reimbursement Amount
23	1999	90
24	2000	80
25	2001	70
26	2002	60
27	2003	50
28	2004	40
29	2005	30
30	2006	20

1	2007	10
2	2008 and following years	0

3 (b) The reimbursement amount for each tax year must be the basis for reducing the amount remitted
 4 to the state for the levy imposed under 20-9-360 in December of the same year and June of the following year.

5 (14) The county treasurer shall use the funds from the reduced payment to the state for the levy imposed
 6 under 20-9-360 or, if applicable, shall use funds available under [section 63(5)] to reimburse each local
 7 government taxing jurisdiction in the amount determined by the department under subsection (2) of this section
 8 or shall use as much of the amount determined under subsection (2) of this section as is available from the levy
 9 imposed under 20-9-360 and funds available to the department under [section 63(5)]. The reimbursement must
 10 be distributed to funds within local government taxing jurisdictions in the same manner as taxes on property
 11 described in 15-6-138 are distributed. The reimbursement in June must be distributed based on the prior year's
 12 mill levy, and the reimbursement in December must be based on the current year's mill levy.

13 (15) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of
 14 reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the
 15 amount that would otherwise have to be raised by the mill levy.

16 (16) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer be
 17 considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created
 18 after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government
 19 taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is
 20 annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the
 21 revenue loss and reimbursement is attributed to the new jurisdictions."
 22

23 **Section 66.** Section 15-10-420, MCA, is amended to read:

24 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
 25 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
 26 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
 27 years. The maximum number of mills that a governmental entity may impose is established by calculating the
 28 number of mills required to generate the amount of property tax actually assessed in the governmental unit in
 29 the prior year based on the current year taxable value, less the current year's value of newly taxable property,
 30 plus one-half of the average rate of inflation for the prior 3 years, less the amount received, if any, under [section

1 63(5)].

2 (b) A governmental entity that does not impose the maximum number of mills authorized under
3 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
4 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
5 authority carried forward may be imposed in a subsequent tax year.

6 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
7 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
8 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

9 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
10 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including
11 newly taxable property.

12 (3) For purposes of this section, newly taxable property includes:

13 (a) annexation of real property and improvements into a taxing unit;

14 (b) construction, expansion, or remodeling of improvements;

15 (c) transfer of property into a taxing unit;

16 (d) subdivision of real property; and

17 (e) transfer of property from tax-exempt to taxable status.

18 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
19 release of taxable value from the incremental taxable value of a tax increment financing district because of:

20 (i) a change in the boundary of a tax increment financing district;

21 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

22 (iii) the termination of a tax increment financing district.

23 (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real
24 property that results in the property being taxable as class four property or as nonagricultural land as described
25 in 15-6-133(1)(c).

26 (c) For the purposes of this section, newly taxable property does not include an increase in appraised
27 value of land that was previously valued at 75% of the value of improvements on the land, as provided in
28 15-7-111(4) and (5), as those subsections applied on December 31, 2001.

29 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

30 (a) school district levies established in Title 20; or

1 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
2 excluded under 2-9-212 or 2-18-703.

3 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
4 received under 15-6-131 and 15-6-132.

5 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
6 increase the number of mills to account for a decrease in reimbursements and shall decrease the number of
7 mills to account for any funds received under [section 63(5)].

8 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
9 purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills
10 calculated by the department may not exceed the mill levy limits established in those sections. ~~The~~ Except for
11 the levy calculated under 20-9-360, the mill calculation must be established in whole mills. If Except for the levy
12 calculated under 20-9-360, if the mill levy calculation does not result in a whole number of mills, then the
13 calculation must be rounded up to the nearest whole mill.

14 (9) (a) The provisions of subsection (1) do not prevent or restrict:

15 (i) a judgment levy under 2-9-316 or 7-7-2202;

16 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

17 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
19 actually assessed in a subsequent year.

20 (10) The department may adopt rules to implement this section. The rules may include a method for
21 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
22 improvements, or newly taxable property in a governmental unit."

23

24 **Section 67.** Section 20-9-360, MCA, is amended to read:

25 **"20-9-360. State equalization aid levy -- reduction.** (1) Subject to 15-10-420, there is a levy ~~of 40~~
26 ~~mills, as provided in subsection (2) of this section,~~ imposed by the county commissioners of each county on all
27 taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803,
28 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204. Proceeds of the
29 levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit
30 of the state general fund for state equalization aid to the public schools of Montana.

1 (2) (a) The levy to be imposed under subsection (1) for the fiscal years ending June 30, 2003, and June
 2 30, 2004, is 40 mills.

3 (b) Except as provided in subsection (2)(c), the levy to be imposed under subsection (1) for fiscal years
 4 beginning after June 30, 2004, must be calculated by the department before June 30 of each year according to
 5 the following formula:

6 $L = ((A - B)/C) \times 1,000$ where:

7 (i) L is the number of mills to be levied in the fiscal year beginning immediately after "L" is calculated;

8 (ii) A is the amount of revenue that would be generated if the statewide taxable value for the current tax
 9 year as established by the department was multiplied by 40 mills;

10 (iii) B is the amount of sales tax revenue in the sales tax and use tax account under [section 63(6)(a)]
 11 appropriated by the legislature to be available on July 1 in the fiscal year beginning immediately after "L" is
 12 calculated; and

13 (iv) C is the total statewide taxable valuation for the current tax year.

14 (c) Whenever the value for "L" calculated pursuant to subsection (2)(b) is a negative number, then the
 15 number of mills to be levied under subsection (1) is zero.

16 (3) The department shall notify the county treasurer of each county of the number of mills to be levied
 17 under subsection (1) as soon as possible each year, but not later than June 30."

18

19 **NEW SECTION. Section 68. Transition.** Because the implementation of [this act] requires the
 20 department of revenue, vendors, and a variety of business entities to design and implement a number of
 21 requirements, including but not limited to permits, forms, and processes, in a relatively short period of time, the
 22 legislature intends for the period of time from passage and approval of [this act] to May 1, 2003, to be used to
 23 allow for an orderly, efficient, and effective transition. The department and others involved in implementing [this
 24 act] shall interpret and implement the provisions of [this act], including but not limited to the adoption and
 25 execution of administrative rules attendant to [this act], in a manner that will effectuate implementation of the
 26 sales tax and use tax by May 1, 2003, and the mitigation of certain property taxes and individual income taxes
 27 in the years following. Therefore:

28 (1) notwithstanding the provisions of [section 39], each person engaging in business prior to [the
 29 applicability date of sections 2 and 62] must have applied for and received, prior to [the applicability date of
 30 sections 2 and 62], a valid seller's permit described in [section 39];

1 (2) notwithstanding the provisions of [section 8], any person engaging in business prior to [the
2 applicability date of sections 2 and 62] may apply for and receive, prior to [the applicability date of sections 2 and
3 62], a valid nontaxable transaction certificate described in [section 8]; and

4 (3) the department of revenue shall adopt rules to provide procedures for receiving and processing an
5 application for a seller's permit and for providing a seller's permit and a nontaxable transaction certificate prior
6 to [the applicability date of sections 2 and 62].

7

8 **NEW SECTION. Section 69. Notification to tribal governments.** The secretary of state shall send
9 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
10 band of Chippewa.

11

12 **NEW SECTION. Section 70. Codification instruction.** (1) [Sections 1 through 63] are intended to
13 be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 63].

14 (2) [Section 64] is intended to be codified as an integral part of Title 17, and the provisions of Title 17
15 apply to [section 64].

16

17 **NEW SECTION. Section 71. Saving clause.** [This act] does not affect rights and duties that matured,
18 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

19

20 **NEW SECTION. Section 72. Effective date.** [This act] is effective on passage and approval.

21

22 **NEW SECTION. Section 73. Applicability.** (1) [This act], except [sections 2 and 62], applies on
23 passage and approval.

24 (2) [Sections 2 and 62] apply to transactions subject to the sales tax and use tax occurring after April
25 30, 2003.

26 (3) (a) Except as provided in subsection (3)(b), purchases of goods and services pursuant to
27 construction contracts that were bid prior to May 1, 2003, are exempt from the sales tax and use tax.

28 (b) Property or services purchased on or after May 1, 2003, pursuant to a construction contract are
29 subject to the sales tax and use tax imposed in [section 2] if the bid is submitted between May 1 and October
30 31 in any year beginning after December 31, 2002.

