

1 SENATE BILL NO. 280

2 INTRODUCED BY F. THOMAS

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

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

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

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

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

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

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

3 (4) A mediator is prohibited from conveying information from one party to another during the mediation

4 unless the source party specifically allows the conveyance of the information.

5 (5) If the mediation is successful, the department shall value the property that was the subject of the

6 objection as agreed to in the mediation.

7 (6) If the mediation is unsuccessful, the objector may appeal to the county tax appeal board or to the

8 state tax appeal board as provided in 15-2-302 or the objector may bypass the state tax appeal board and file

9 an action in district court relating to the assessed value of property set by the department. If the objector elects

10 to file an action in district court, the objector may file the action in any county in which the property or a portion

11 of the property is located or may file the action in the first judicial district.

12

13 **NEW SECTION. Section 2. Mediation of valuation disputes -- other property taxpayers.** (1) Within

14 30 days after a final decision of the county tax appeal board relating to the assessed value of property other than

15 centrally assessed property or industrial property valued annually by the department, the objecting taxpayer may

16 require that the assessed value be the subject of a mediation proceeding conducted as provided in 26-1-813. The

17 request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general

18 fund.

19 (2) The mediation proceeding must be conducted according to [section 1(2) through (5)].

20 (3) If the mediation is unsuccessful, the objector may appeal to the state tax appeal board.

21

22 **Section 3.** Section 15-1-211, MCA, is amended to read:

23 **"15-1-211. Uniform dispute review procedure -- notice -- appeal.** (1) The department shall provide

24 a uniform review procedure for all persons or other entities, except as provided in subsection (1)(a).

25 (a) The department's dispute review procedure must be adopted by administrative rule and applies to

26 all matters administered by the department and to all issues arising from the administration of the department,

27 except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between

28 the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30,

29 part 25, or whether the employment relationship was that of an independent contractor. ~~The procedure applies~~

30 ~~to assessments of centrally assessed property taxed pursuant to chapter 23.~~

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

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

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

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

9 (c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute
10 resolution office, unless extended by mutual consent of the parties. If a final department decision is not issued
11 within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

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

14 (b) The person or other entity shall have the opportunity to resolve the dispute with the department
15 employee who is responsible for the notice, as indicated on the notice.

16 (c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to
17 the dispute resolution office.

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

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

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

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

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

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

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

30 (5) The department shall:

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

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

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

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

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

10 (b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and
11 conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

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

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

17

18 **Section 4.** Section 15-1-402, MCA, is amended to read:

19 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a
20 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay
21 under written protest that portion of the property tax or fee protested.

22 (b) The protested payment must:

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

24 (ii) specify the grounds of protest; and

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

28 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to
29 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested
30 payment for each county in which a protested payment was made. ~~By November 1 of each year, the department~~

1 ~~shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central~~
2 ~~assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.~~

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

8 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion
9 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced
10 to recover the subsequent installment. The determination of the action or suit commenced to recover the first
11 installment portion paid under protest determines the right of the party paying the subsequent installment to have
12 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not
13 paid by the taxpayer plus interest from the date the subsequent installment was due.

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

21 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to
22 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school
23 district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be
24 remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through
25 (4)(b)(iv).

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

30 (iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited

1 in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special
2 revenue fund.

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

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

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

20 (c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right
21 to its portion of protested taxes on centrally assessed property and on industrial property that is assessed
22 annually by the department for that specific year as provided in 15-1-409.

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

30 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the

1 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
2 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
3 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
4 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
5 under protest. The department shall refund from the school district property tax protest state special revenue fund
6 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district
7 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the
8 amount available for the refund in the school district property tax protest state special revenue fund is insufficient
9 to refund the property tax payments, the department shall pay the remainder of the refund from the state general
10 fund.

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

13 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer
14 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

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

21 (ii) For an adverse protest action against the state for centrally assessed property, the department shall
22 refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and
23 from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an
24 adverse protested action from the centrally assessed property tax state special revenue fund may not exceed
25 the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)
26 and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred
27 to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested
28 action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments
29 to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder
30 of the refund proportionally from the state general fund and from money deposited in the state special revenue

1 fund levied pursuant to 15-10-108.

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

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

- 10 (a) imposition of a property tax to be collected by a special tax protest refund levy;
11 (b) the general fund or any other funds legally available to the governing body; and
12 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
13 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or
14 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be
15 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

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

18

19 **Section 5.** Section 15-2-302, MCA, is amended to read:

20 "**15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) A
21 person may appeal to the state tax appeal board a final decision of the department of revenue or an unsuccessful
22 mediation under [section 1] involving:

- 23 (a) property centrally assessed under chapter 23;
24 (b) the valuation of industrial property that is assessed annually by the department;
25 ~~(b)~~(c) classification of property as new industrial property;
26 ~~(c)~~(d) any other tax, other than the property tax, imposed under this title; or
27 ~~(d)~~(e) any other matter in which the appeal is provided by law.

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

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

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

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

8

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

10 "**15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) A
11 person may appeal to the state tax appeal board a final decision of the department of revenue or an unsuccessful
12 mediation under [section 1 or 2] involving:

13 (a) property centrally assessed under chapter 23;

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

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

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

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

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

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

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

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

28

29 **Section 7.** Section 15-8-601, MCA, is amended to read:

30 "**15-8-601. Assessment revision -- conference for review.** (1) (a) Except as provided in subsection

1 (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped
2 assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property
3 provided that the property is under the ownership or control of the same person who owned or controlled it at the
4 time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments
5 must be made within 10 years after the end of the calendar year in which the original assessment was or should
6 have been made.

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

12 (c) If an erroneous assessment is due to a calculation error by the department, the department shall
13 revise the assessment of like properties that were also erroneously assessed using the same calculation.

14 (2) When the department proposes to revise the statement reported by the taxpayer under 15-8-301,
15 the action of the department is subject to the notice and conference provisions of this section. Revised
16 assessments of centrally assessed property and industrial property that is assessed annually by the department
17 are subject to ~~review~~ mediation pursuant to ~~45-4-214~~ [section 1].

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

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

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

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

1

2 **Section 8.** Section 15-15-102, MCA, is amended to read:

3 **"15-15-102. Application for reduction in valuation.** (1) The valuation of property may not be reduced
4 by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written
5 application for reduction with the county tax appeal board. The application for reduction may be obtained at the
6 local appraisal office or from the county tax appeal board. The completed application must be submitted to the
7 county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and
8 recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from
9 the county clerk and recorder. The application must be submitted on or before the later of

10 (a) the first Monday in June; or

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

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

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

21

22 **Section 9.** Section 15-23-102, MCA, is amended to read:

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

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

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

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

29 (2) Appeals from the decision of the department ~~pursuant to 15-4-211~~ are subject to mediation under
30 [section 1] and may be taken to the county tax appeal board, state tax appeal board, or district court."

1

2 **Section 10.** Section 15-23-104, MCA, is amended to read:

3 "**15-23-104. Failure to file -- estimate by department -- penalty.** (1) If any person fails to file a report
4 or return within the time established in 15-23-103 or by a later date approved by the department, the department
5 shall estimate the value of the property that should have been reported on the basis of the best available
6 information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506,
7 and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107.
8 In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the
9 department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena
10 a person or the person's agent as specified in 15-1-302. An assessment pursuant to parts 5, 7, and 8 of this
11 chapter based on estimated value or imputed value is subject to review mediation under ~~45-1-211~~ [section 1].
12 For each month or part of a month that a report is delinquent, the department shall impose and collect a \$25
13 penalty, with the total not to exceed \$200, and shall deposit the penalty to the credit of the general fund. The
14 department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is
15 delinquent. The department shall notify the county treasurer of each affected county of the amount of the penalty,
16 and the treasurer shall collect the penalty in the same manner as the taxes to which the penalty applies.
17 (2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the
18 tax due for each month or part of a month that the report is delinquent."

19

20 **Section 11.** Section 15-24-3112, MCA, is amended to read:

21 "**15-24-3112. Certification.** (1) (a) Upon application by a taxpayer, the department of environmental
22 quality shall determine whether a facility or equipment qualifies for a tax abatement under 15-24-3111 or rules
23 adopted under 15-24-3116. If the department determines that a facility or equipment qualifies for abatement or
24 a classification, it shall issue a certification of eligibility.

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

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

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

