

1 HOUSE BILL NO. 640

2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION; REPEALING INDIVIDUAL
5 INCOME TAXES AND CORPORATE INCOME TAXES; ENACTING A GENERAL STATEWIDE SALES TAX AND
6 USE TAX; AUTHORIZING THE DEPARTMENT OF REVENUE TO ENTER INTO THE STREAMLINED SALES
7 TAX AND USE TAX AGREEMENT; IMPLEMENTING APPROPRIATE PROVISIONS OF THE STREAMLINED
8 SALES TAX AND USE TAX AGREEMENT; ALLOWING VARIOUS SALES TAX AND USE TAX EXEMPTIONS;
9 ELIMINATING THE STATEWIDE 40-MILL LEVY FOR SCHOOL FUNDING; ELIMINATING CERTAIN MOTOR
10 VEHICLE FEES; PROVIDING FOR A ONE-TIME REGISTRATION FEE OF \$50 FOR CERTAIN VEHICLES;
11 PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-1312, 5-12-303, 7-14-1133, 7-14-1636,
12 7-21-3710, 7-34-2416, 10-1-1303, 15-1-101, 15-1-102, 15-1-110, 15-1-121, 15-1-205, 15-1-211, 15-1-216,
13 15-1-302, 15-1-503, 15-2-201, 15-6-224, 15-6-301, 15-7-102, 15-10-420, 15-16-101, 15-24-1402, 15-24-1410,
14 15-38-109, 15-39-110, 15-68-101, 15-68-102, 15-68-110, 15-68-201, 15-68-202, 15-68-207, 15-68-401,
15 15-68-402, 15-68-405, 15-68-501, 15-68-502, 15-68-505, 15-68-510, 15-68-520, 15-68-801, 15-68-815,
16 17-5-1102, 17-6-311, 17-6-316, 17-6-602, 17-7-111, 17-7-502, 19-2-303, 19-2-1004, 19-17-407, 19-18-612,
17 19-19-504, 19-20-101, 19-20-706, 19-21-212, 19-50-101, 20-9-543, 20-25-503, 20-25-504, 25-13-402, 27-1-732,
18 30-20-204, 32-3-401, 33-22-2002, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009,
19 33-27-101, 33-27-102, 33-27-103, 35-1-944, 35-2-1401, 37-4-104, 45-6-301, 47-1-111, 50-5-117, 53-2-211,
20 53-4-1103, 53-6-1201, 53-6-1317, 61-3-321, 61-3-562, 61-6-158, 67-11-303, 70-9-803, 75-2-103, 75-5-103,
21 75-25-101, 87-2-102, 87-2-105, 87-5-121, 90-4-602, 90-4-1005, AND 90-4-1202, MCA; REPEALING SECTIONS
22 15-1-109, 15-1-230, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104, 15-30-2105, 15-30-2110, 15-30-2111,
23 15-30-2112, 15-30-2113, 15-30-2114, 15-30-2115, 15-30-2116, 15-30-2117, 15-30-2118, 15-30-2119,
24 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144, 15-30-2151,
25 15-30-2152, 15-30-2153, 15-30-2154, 15-30-2301, 15-30-2302, 15-30-2319, 15-30-2320, 15-30-2326,
26 15-30-2327, 15-30-2328, 15-30-2329, 15-30-2334, 15-30-2335, 15-30-2336, 15-30-2337, 15-30-2338,
27 15-30-2339, 15-30-2340, 15-30-2341, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364, 15-30-2365,
28 15-30-2366, 15-30-2367, 15-30-2368, 15-30-2373, 15-30-2380, 15-30-2381, 15-30-2386, 15-30-2387,
29 15-30-2388, 15-30-2389, 15-30-2390, 15-30-2392, 15-30-2501, 15-30-2502, 15-30-2503, 15-30-2504,
30 15-30-2505, 15-30-2506, 15-30-2507, 15-30-2508, 15-30-2509, 15-30-2510, 15-30-2511, 15-30-2512,

1 15-30-2521, 15-30-2522, 15-30-2523, 15-30-2531, 15-30-2536, 15-30-2537, 15-30-2538, 15-30-2539,
 2 15-30-2540, 15-30-2541, 15-30-2542, 15-30-2543, 15-30-2544, 15-30-2545, 15-30-2546, 15-30-2547,
 3 15-30-2601, 15-30-2602, 15-30-2603, 15-30-2604, 15-30-2605, 15-30-2606, 15-30-2607, 15-30-2608,
 4 15-30-2609, 15-30-2616, 15-30-2617, 15-30-2618, 15-30-2619, 15-30-2620, 15-30-2621, 15-30-2622,
 5 15-30-2629, 15-30-2630, 15-30-2631, 15-30-2632, 15-30-2633, 15-30-2634, 15-30-2641, 15-30-2642,
 6 15-30-2643, 15-30-2646, 15-30-2651, 15-30-2660, 15-30-3001, 15-30-3002, 15-30-3003, 15-30-3004,
 7 15-30-3005, 15-30-3101, 15-30-3102, 15-30-3103, 15-30-3104, 15-30-3105, 15-30-3106, 15-30-3110,
 8 15-30-3111, 15-30-3112, 15-30-3113, 15-30-3114, 15-30-3301, 15-30-3302, 15-30-3311, 15-30-3312,
 9 15-30-3313, 15-30-3314, 15-30-3315, 15-30-3321, 15-31-101, 15-31-102, 15-31-103, 15-31-111, 15-31-112,
 10 15-31-113, 15-31-114, 15-31-115, 15-31-117, 15-31-118, 15-31-119, 15-31-121, 15-31-122, 15-31-124,
 11 15-31-125, 15-31-126, 15-31-127, 15-31-130, 15-31-131, 15-31-132, 15-31-133, 15-31-134, 15-31-135,
 12 15-31-136, 15-31-137, 15-31-141, 15-31-142, 15-31-143, 15-31-150, 15-31-151, 15-31-158, 15-31-159,
 13 15-31-161, 15-31-162, 15-31-163, 15-31-171, 15-31-172, 15-31-301, 15-31-302, 15-31-303, 15-31-304,
 14 15-31-305, 15-31-306, 15-31-307, 15-31-308, 15-31-309, 15-31-310, 15-31-311, 15-31-312, 15-31-313,
 15 15-31-321, 15-31-322, 15-31-323, 15-31-324, 15-31-325, 15-31-326, 15-31-401, 15-31-402, 15-31-403,
 16 15-31-404, 15-31-405, 15-31-406, 15-31-407, 15-31-501, 15-31-502, 15-31-503, 15-31-504, 15-31-505,
 17 15-31-506, 15-31-509, 15-31-510, 15-31-511, 15-31-521, 15-31-522, 15-31-523, 15-31-524, 15-31-525,
 18 15-31-526, 15-31-531, 15-31-532, 15-31-541, 15-31-543, 15-31-544, 15-31-551, 15-31-552, 15-31-553,
 19 15-31-554, 15-32-101, 15-32-102, 15-32-103, 15-32-104, 15-32-105, 15-32-106, 15-32-107, 15-32-109,
 20 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-301, 15-32-302, 15-32-303, 15-32-401, 15-32-402,
 21 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-505,
 22 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-601, 15-32-602, 15-32-603, 15-32-604,
 23 15-32-609, 15-32-610, 15-32-611, 15-32-701, 15-32-702, 15-32-703, 15-33-101, 15-33-102, 15-33-103,
 24 15-33-104, 15-33-105, 15-33-106, 15-50-101, 15-50-205, 15-50-206, 15-50-207, 15-50-301, 15-50-304,
 25 15-50-307, 15-50-308, 15-50-309, 15-50-310, 15-50-311, 15-61-101, 15-61-102, 15-61-201, 15-61-202,
 26 15-61-203, 15-61-204, 15-61-205, 15-62-101, 15-62-102, 15-62-103, 15-62-201, 15-62-202, 15-62-203,
 27 15-62-205, 15-62-206, 15-62-207, 15-62-208, 15-62-209, 15-62-301, 15-62-302, 15-63-101, 15-63-102,
 28 15-63-201, 15-63-202, 15-63-203, 15-63-204, 15-63-205, 15-68-212, 20-9-360, 20-9-901, 20-9-902, 20-9-903,
 29 20-9-904, 20-9-905, 20-9-906, 20-25-901, 20-25-902, 33-17-407, 50-51-114, 50-51-115, 53-25-117, 53-25-118,
 30 69-3-713, AND 87-1-294, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY

1 DATE."

2

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

4

5 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], the following definitions
6 apply:

7 (1) "Agreement" means the Streamlined Sales Tax and Use Tax Agreement.

8 (2) "Certified automated system" means software certified jointly by the states that are signatories to the
9 agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax to
10 remit to the appropriate state, and to maintain a record of the transaction.

11 (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the
12 agreement to perform all of the seller's sales tax functions.

13 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
14 liability partnership, corporation, or other legal entity.

15 (5) "Sales tax" means the tax levied under 15-68-102.

16 (6) "Seller" means a person making sales, leases, or rentals of personal property.

17 (7) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
18 Rico, or a territory or possession of the United States.

19 (8) "Use tax" means the tax levied under 15-68-102.

20

21 NEW SECTION. **Section 2. Authority to enter agreement.** (1) The department is authorized and
22 directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax
23 administration to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.
24 In furthering the agreement, the department is authorized to act jointly with other states that are signatories to
25 the agreement to establish standards for certification of certified service providers and a certified automated
26 system and to establish performance standards for multistate sellers through a multistate central registration
27 system.

28 (2) The department is further authorized to take other actions reasonably required to implement the
29 provisions of [sections 1 through 7]. Other actions authorized by this section include but are not limited to the
30 adoption of rules and the joint procurement, with other signatory states, of goods and services in furthering the

1 agreement.

2 (3) The department or the department's designee is authorized to represent this state before other states
3 that are signatories to the agreement.

4
5 **NEW SECTION. Section 3. Relationship to state law.** A provision of the agreement, in whole or in
6 part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state
7 does not amend or modify any law of this state. Implementation of any condition of the agreement within this
8 state, whether adopted before, at the time, or after this state becomes a signatory to the agreement, must be by
9 the action of this state.

10
11 **NEW SECTION. Section 4. Agreement requirements.** The department may not enter into the
12 agreement unless the agreement requires each signatory state to abide by the following requirements:

13 (1) The agreement must set restrictions to achieve, over time, more uniform rates in Montana through
14 the following methods:

- 15 (a) limiting the number of state rates;
16 (b) limiting the application of maximums on the amount of state tax that is due on a transaction; and
17 (c) limiting the application of thresholds on the application of state tax.

18 (2) The agreement must establish uniform standards for:

- 19 (a) the sourcing of transactions to taxing jurisdictions;
20 (b) the administration of exempt sales;
21 (c) the allowances that a seller may take for bad debts; and
22 (d) sales tax and use tax returns and remittances.

23 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use tax
24 terms. The definitions must enable a state to preserve its ability to make policy choices consistent with the uniform
25 definitions.

26 (4) The agreement must provide a central, electronic registration system that allows a seller to register
27 to collect and remit sales taxes and use taxes for all signatory states.

28 (5) The agreement must provide that registration with the multistate central registration system and the
29 collection of sales taxes and use taxes in the signatory states will not be used as factors in determining whether
30 the seller has nexus with a state for any tax.

1 (6) The agreement must provide for reduction of the burdens of complying with local sales taxes and use
2 taxes through the following methods:

3 (a) restricting variances between the state and local tax bases;

4 (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the
5 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
6 to, or be subject to independent audits from local taxing jurisdictions;

7 (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective dates
8 for the application of local jurisdictional boundary changes to local sales taxes and use taxes; and

9 (d) providing notice of changes in local sales tax and use tax rates and changes in the boundaries of
10 local taxing jurisdictions.

11 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers
12 or certified service providers.

13 (8) The agreement must require a state to certify compliance with the terms of the agreement prior to
14 becoming a signatory and to maintain compliance, under the laws of the state, with all provisions of the
15 agreement while a signatory.

16 (9) The agreement must require each signatory state to adopt a uniform policy for certified service
17 providers that protects the privacy of consumers and maintains the confidentiality of tax information.

18 (10) The agreement must provide for the appointment of an advisory council of private sector
19 representatives and an advisory council of representatives of states that are not signatory states to consult in
20 administering the agreement.

21
22 **NEW SECTION. Section 5. Cooperating sovereigns.** The agreement is an accord among individual
23 cooperating sovereigns in furthering their governmental functions. The agreement provides a mechanism among
24 the signatory states to establish and maintain a cooperative, simplified system for applying and administering
25 sales taxes and use taxes under the adopted law of each signatory state.

26
27 **NEW SECTION. Section 6. Limited binding and beneficial effect.** (1) The agreement binds and
28 inures only to the benefit of this state and the other signatory states. No person other than a signatory state is
29 an intended beneficiary of the agreement. Any benefit to a person other than a signatory state is established by
30 the law of this state and the other signatory states and not by the terms of the agreement.

1 (2) Consistent with subsection (1), no person has any cause of action or defense under the agreement
2 or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under
3 any provision of law, an action or inaction by a department, agency, or other instrumentality of this state or a
4 political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

5 (3) A law of this state or the application of a law of this state may not be declared invalid as to any person
6 or circumstance on the ground that the provision or application is inconsistent with the agreement.

7
8 **NEW SECTION. Section 7. Seller and third-party liability.** (1) (a) A certified service provider is the
9 agent of a seller with whom the certified service provider has contracted for the collection and remittance of sales
10 taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax due
11 each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

12 (b) A seller that contracts with a certified service provider is not liable to the state for sales tax or use tax
13 due on transactions processed by the certified service provider unless the seller misrepresented the type of items
14 that it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud
15 or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the
16 certified service provider.

17 (c) A seller is subject to audit for transactions not processed by the certified service provider. The
18 signatory states, acting jointly, may perform a system check of the seller and review the seller's procedures to
19 determine whether the certified service provider's system is functioning properly and the extent to which the
20 seller's transactions are being processed by the certified service provider.

21 (2) A person who provides a certified automated system is responsible for the proper functioning of the
22 system and is liable to the state for underpayments of tax attributable to errors in the functioning of the system.
23 A seller that uses a certified automated system remains responsible and is liable to the state for reporting and
24 remitting tax.

25 (3) A seller that has a proprietary system for determining the amount of tax due on transactions and that
26 has signed an agreement establishing a performance standard for the system is liable for the failure of the system
27 to meet the performance standard.

28
29 **NEW SECTION. Section 8. Direct payment of sales tax -- direct payment permits.** (1) The
30 department may issue direct payment permits to a person liable for the payment of more than \$500 a year in

1 sales tax. The person shall apply to the department for a permit, on forms approved by the department. By
2 applying for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to
3 pay any sales tax due under this chapter from the applicant as a direct payment permitholder. A direct payment
4 permit may be revoked by the department at any time upon 90 days' written notice to the permitholder. A
5 permitholder may be audited by the department.

6 (2) A direct payment permitholder shall pay any sales tax authorized under this chapter directly to the
7 department. The permitholder must receive a nontaxable transaction certificate, as provided in 15-68-202, using
8 the direct payment permit as a basis for the exemption.

9

10 **NEW SECTION. Section 9. Credit -- out-of-state taxes.** If a sales tax, use tax, or similar tax has been
11 levied by another state or a political subdivision of another state on property that was bought outside this state
12 but that will be used or consumed within this state and the tax was paid by the current user, the amount of tax
13 paid may be credited against any use tax due this state on the same property. The credit may not exceed the
14 sales tax or use tax due this state.

15

16 **NEW SECTION. Section 10. Exemption -- dividends and interest.** The following are exempt from the
17 sales tax:

- 18 (1) interest on money loaned or deposited;
19 (2) dividends or interest from stocks, bonds, or securities; and
20 (3) proceeds from the sale of stocks, bonds, or securities.

21

22 **NEW SECTION. Section 11. Exemption -- personal effects.** The use by an individual of personal or
23 household effects brought into the state for the establishment by the individual of an initial residence within this
24 state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use
25 while temporarily within this state are exempt from the use tax.

26

27 **NEW SECTION. Section 12. Exemption -- sale of livestock.** (1) (a) The sale of livestock, live poultry,
28 hides, or pelts by a producer, trapper, or nonprofit marketing association is exempt from the sales tax.

29 (b) A person engaged in the business of buying and selling wool or mohair or of buying and selling
30 livestock on the person's own account and without the services of a broker, auctioneer, or other agent is

1 considered a producer for the purposes of subsection (1)(a).

2 (2) Sales from feeding livestock prior to sale are exempt from the sales tax.

3

4 **NEW SECTION. Section 13. Exemption -- feed -- water for irrigation.** The sale or use of the following
5 when used in the course of an agricultural business is exempt from the sales tax and use tax:

6 (1) feed for livestock;

7 (2) semen, ova, and embryos used in animal husbandry; and

8 (3) water for commercial irrigation.

9

10 **NEW SECTION. Section 14. Exemption -- minerals -- exceptions.** (1) The sale or lease of interests
11 in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

12 (2) Except as provided in subsections (5) and (6), the sale or use of a mineral, as defined in
13 15-38-103, is exempt from the sales tax and use tax.

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

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

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

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

25

26 **NEW SECTION. Section 15. Exemption -- certain chemicals, reagents, and substances.** (1) The
27 sale or use by a person of a chemical, reagent, or other substance that is normally used or consumed in the
28 processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt
29 from the sales tax and use tax.

30 (2) The sale or use of explosives, blasting material, or dynamite is not exempt from the sales tax and

1 use tax.

2

3 **NEW SECTION. Section 16. Nontaxability -- sale to miner or manufacturer.** (1) The sale of property

4 to a purchaser engaged in the business of mining or manufacturing is nontaxable if:

5 (a) the purchaser has a nontaxable transaction certificate; and

6 (b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the
7 business of mining or manufacturing; or

8 (ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in
9 place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently
10 ceases.

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

13

14 **NEW SECTION. Section 17. Nontaxability -- transactions in interstate commerce -- certain**
15 **property used in interstate commerce.** The following are nontaxable:

16 (1) a transaction in interstate commerce to the extent that the imposition of the sales tax or use tax would
17 be unlawful under the United States constitution;

18 (2) transmitting messages or conversations by radio when the transmissions originate from a point
19 outside this state and are received at a point within this state; and

20 (3) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf
21 of a national or regional seller or an advertiser that does not have its principal place of business within this state
22 or that is not incorporated under the laws of this state.

23

24 **NEW SECTION. Section 18. Nontaxability -- sale or lease of real property or improvements and**
25 **lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

26 (b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.

27 (2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or
28 rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

29

30 **Section 19.** Section 2-18-1312, MCA, is amended to read:

1 **"2-18-1312. Tax exemption.** Employer contributions into an account, the accumulation of interest or
 2 other earnings in an account, and payments from an account for qualified health care expenses are tax-exempt;
 3 ~~as provided in 15-30-2110 and~~ under applicable federal laws and regulations to the extent that the plan is
 4 qualified under applicable sections of the Internal Revenue Code."

5

6 **Section 20.** Section 5-12-303, MCA, is amended to read:

7 **"5-12-303. Fiscal analysis information from state agencies.** (1) The legislative fiscal analyst may
 8 investigate and examine the costs and revenue of state government activities and may examine and obtain copies
 9 of the records, books, and files of any state agency, including confidential records.

10 (2) When confidential records and information are obtained from a state agency, the legislative fiscal
 11 analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records
 12 and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall
 13 develop policies to prevent the unauthorized disclosure of confidential records and information obtained from
 14 state agencies.

15 ~~(3) (a) The department of revenue shall make Montana individual income tax information available by~~
 16 ~~removing names, addresses, and social security numbers and substituting in their place a state accounting record~~
 17 ~~identifier number. Except for the purposes of complying with federal law, the department may not alter the data~~
 18 ~~in any other way.~~

19 ~~(b) The department of revenue shall provide the name and address of a taxpayer on written request of~~
 20 ~~the legislative fiscal analyst when the values on the requested return, including estimated payments, are~~
 21 ~~considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient~~
 22 ~~magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the~~
 23 ~~effect of the return or payments on the analysis being performed.~~

24 ~~(4)~~(3) Within 1 day after the legislative finance committee presents its budget analysis to the legislature,
 25 the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement
 26 recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This
 27 information must be filed in the respective offices and be made available to the legislature and the public. In
 28 preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst
 29 shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

30 ~~(5)~~(4) This section does not authorize publication or public disclosure of information if the law prohibits

1 publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or
2 information may contain confidential information."

3

4 **Section 21.** Section 7-14-1133, MCA, is amended to read:

5 **"7-14-1133. Bonds and obligations.** (1) Except for providing financial support to a private development
6 organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the
7 economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any
8 of its corporate purposes and issue bonds, including refunding bonds, for any of its corporate purposes. The
9 bonds may be in the form and upon terms as it determines, payable out of any revenue of the authority, including
10 revenue derived from:

- 11 (a) any port or transportation and storage facility;
12 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
13 (c) grants or contributions from the federal government; or
14 (d) other sources.

15 (2) The bonds may be issued by resolution of the authority, without an election and without any limitation
16 of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become
17 due in any year on the bonds and on any then outstanding bonds for which revenue from the same source is
18 pledged exceeds the amount of revenue to be received in that year, as estimated in the resolution authorizing
19 the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and
20 collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from
21 the pledged source in ~~such~~ that year at least equal to the amount of principal and interest due in that year.

22 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.
23 Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable
24 as to principal and interest solely from revenue of the authority or from particular port, transportation, storage,
25 or other facilities of the authority. The bonds must state on their face the applicable limitations or restrictions
26 regarding the source from which principal and interest are payable.

27 (4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are
28 declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the~~
29 ~~meaning of 15-30-2110(2)(a).~~

30 (5) (a) For the security of bonds, the authority, county, or municipality may by resolution make and enter

1 into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised
 2 by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal
 3 and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this
 4 part, prior to the payment of current costs of operation and maintenance of the facilities.

5 (b) As further security for the bonds, the authority, with the approval of the governing body of the county
 6 or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or
 7 any portion of its port, transportation, storage, or other facilities, whether or not the facilities are financed by the
 8 bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any
 9 agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the
 10 authority consider advisable. The provisions must be consistent with this part and are subject to and must be in
 11 accordance with the laws of this state governing mortgages, trust indentures, security agreements, or
 12 instruments. The instrument may provide that in the event of a default in the payment of principal or interest on
 13 the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or
 14 instrument, the payment or performance may be enforced by mandamus or by the appointment of a receiver in
 15 equity. The receiver may collect charges, rental, or fees and may apply the revenue from the mortgaged property
 16 or collateral in accordance with the proceedings or the provisions of the instrument.

17 (6) Nothing in this section or 7-14-1134 may be construed to limit the use of port authority revenue,
 18 including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide
 19 financial and other support to private development organizations, including corporations organized under the
 20 provisions of the development corporation act in Title 32, chapter 4. The credit of the state, county, or municipal
 21 governments or their agencies or authorities may not be pledged to provide financial support to the development
 22 organizations."

23

24 **Section 22.** Section 7-14-1636, MCA, is amended to read:

25 **"7-14-1636. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
 26 purposes and issue bonds for ~~its~~ the purposes of the authority, including refunding bonds, in a form and ~~upon~~ on
 27 terms as ~~it~~ the authority determines, payable out of any revenue of the authority, including revenue derived from:

28 (a) a railroad;

29 (b) taxes levied pursuant to 7-14-1632;

30 (c) grants or contributions from the federal government; or

1 (d) other sources.

2 (2) The bonds may be issued by resolution of the authority, without an election and without any limitation
3 of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become
4 due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is
5 pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing
6 the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and
7 collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from
8 the pledged source in the year at least equal to the amount of principal and interest due in that year.

9 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.
10 Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from revenue
11 of the authority and must state on their face the applicable limitations or restrictions regarding the source from
12 which the principal and interest are payable.

13 (4) Bonds issued by an authority pursuant to the provisions of this part are declared to be issued for an
14 essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~

15 (5) For the security of the bonds, the authority may by resolution make and enter into any covenant,
16 agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality
17 under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and
18 to create and maintain a reserve for the bonds may be paid from the revenue referred to in this part, prior to the
19 payment of current costs of operation and maintenance of the facilities."
20

21 **Section 23.** Section 7-21-3710, MCA, is amended to read:

22 **"7-21-3710. Tax credits credit for employers in empowerment zone.** (1) There is allowed to an
23 employer a credit against taxes imposed under ~~15-30-2103, 15-31-121, 15-31-122, or 33-2-705~~ for an increase
24 in net employees as provided in this section.

25 (2) To be eligible for a credit under this section, the owner of a business located in an empowerment
26 zone:

27 (a) shall conduct a business in a facility within the empowerment zone in which retail sales of tangible
28 personal property, other than that manufactured in the business facility, are not in excess of 10% of the business
29 conducted in the facility, whether measured by number of employees doing retail sales, by square footage, or
30 by dollar volume; and

- 1 (b) shall increase employment in the empowerment zone with employees:
2 (i) who are employed for at least 1,750 hours a year in permanent employment intended to last at least
3 3 years;
4 (ii) who were not employed by the business in the preceding 12 months;
5 (iii) at least 35% of whom were residents of the county in which the empowerment zone is located at the
6 time they were hired by the business;
7 (iv) who are provided a health benefit plan for employees in accordance with 33-22-1811(3)(d) of which
8 at least 50% of the premium is paid by the business; and
9 (v) who are paid for job duties performed at the empowerment zone location of the business.
- 10 (3) (a) For the purposes of subsection (2)(b)(i), an employee hired in the last 90 days of a year is
11 considered to be an employee beginning employment in the following year. If an employee terminates
12 employment, a replacement employee may be hired and the credit for the combined length of time may be
13 claimed.
- 14 (b) For the purposes of subsection (2)(b)(iii), if an employee for whom a credit was claimed and who
15 counted as an empowerment zone county resident for credit eligibility in either of the immediate 2 preceding years
16 terminates employment, the replacement employee must have been a resident of the county in which the
17 empowerment zone is located at the time the replacement employee is hired.
- 18 (4) An employer shall apply for certification to claim a credit under the provisions of this section. The
19 department shall require a report that contains detailed information to determine whether an employer qualifies
20 under subsections (2) and (3). The information must be detailed enough for auditing purposes. The department
21 is authorized to inspect employers applying for certification or who have obtained certification.
- 22 (5) The department shall certify to the department of revenue or the state auditor's office, as applicable,
23 whether a business may claim a credit under the provisions of this section as well as how many additional
24 employees qualify and the year of initial employment of qualifying employees."

25
26 **Section 24.** Section 7-34-2416, MCA, is amended to read:
27 **"7-34-2416. Tax-exempt status of bonds.** Bonds issued by a county pursuant to the provisions of
28 7-34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental
29 purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~"

30

1 **Section 25.** Section 10-1-1303, MCA, is amended to read:

2 **"10-1-1303. Fund account -- statutory appropriation.** (1) There is a Montana military family relief fund
3 account in the state special revenue fund provided for in 17-2-102. All money transferred to the fund by the
4 legislature, all monetary contributions, gifts, and grants donated to the fund, ~~all contributions made to the fund~~
5 ~~pursuant to 15-30-2392~~, and all interest and income earned on money in the account must be deposited into the
6 account.

7 (2) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the
8 purposes of this part."

9

10 **Section 26.** Section 15-1-101, MCA, is amended to read:

11 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
12 section are used in connection with taxation, they are defined in the following manner:

13 (a) The term "agricultural" refers to:

14 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control
15 insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or
16 produced for commercial purposes; and

17 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

18 (b) The term "assessed value" means the value of property as defined in 15-8-111.

19 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit
20 margin shown in national appraisal guides and manuals or the valuation schedules of the department.

21 (d) (i) The term "commercial", when used to describe property, means property used or owned by a
22 business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including
23 industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).

24 (ii) The following types of property are not commercial:

25 (A) agricultural lands;

26 (B) timberlands and forest lands;

27 (C) single-family residences and ancillary improvements and improvements necessary to the function
28 of a bona fide farm, ranch, or stock operation;

29 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
30 distributor or dealer as stock in trade; and

1 (E) all property described in 15-6-135.

2 (e) The term "comparable property" means property that:

3 (i) has similar use, function, and utility;

4 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

5 (iii) has the potential of a similar highest and best use.

6 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

7 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
8 provided for in 2-15-1301.

9 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

10 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
11 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
12 found in any coal formation.

13 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,
14 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile
15 home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or
16 housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or
17 housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot
18 feasibly be relocated and only when the wheels are removed.

19 (j) "Industrial property" for purposes of this section includes all land used for industrial purposes,
20 improvements, and buildings used to house the industrial process and all storage facilities. Under this section,
21 industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

22 (k) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be
23 labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
24 provisions as they may be otherwise labeled or further amended.

25 ~~(l)~~ (l) The term "leasehold improvements" means improvements to mobile homes and mobile homes
26 located on land owned by another person. This property is assessed under the appropriate classification, and
27 the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold
28 improvements are a lien only on the leasehold improvements.

29 ~~(m)~~ (m) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,
30 bison, ostriches, rheas, emus, and domestic ungulates.

1 ~~(m)~~(n) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance
2 with the United States department of housing and urban development code and the federal Manufactured Home
3 Construction and Safety Standards.

4 (ii) A manufactured home does not include a mobile home, as defined in subsection ~~(4)~~~~(e)~~ (1)(p), or a
5 mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety
6 Standards went into effect on June 15, 1976.

7 ~~(n)~~(o) The term "market value" means the value of property as provided in 15-8-111.

8 ~~(e)~~(p) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer
9 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
10 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet
11 in length used as a principal residence.

12 ~~(p)~~(q) The term "personal property" includes everything that is the subject of ownership but that is not
13 included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as
14 that term is defined in 15-6-218.

15 ~~(e)~~(r) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
16 domestication to produce food or feathers.

17 ~~(r)~~(s) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and
18 things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize
19 the taxation of the stocks of a company or corporation when the property of the company or corporation
20 represented by the stocks is within the state and has been taxed.

21 ~~(s)~~(t) The term "real estate" includes:

22 (i) the possession of, claim to, ownership of, or right to the possession of land;

23 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title
24 15, chapter 23, part 8;

25 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;
26 and

27 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

28 ~~(t)~~(u) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking,
29 and winter sports, including but not limited to skiing, skating, and snowmobiling.

30 ~~(u)~~(v) "Research and development firm" means an entity incorporated under the laws of this state or a

1 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
 2 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
 3 and technical nature into practical application for experimental and demonstration purposes, including the
 4 experimental production and testing of models, devices, equipment, materials, and processes.

5 ~~(v)~~(w) The term "stock in trade" means any mobile home, manufactured home, or house trailer that is
 6 listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
 7 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

8 ~~(w)~~(x) The term "taxable value" means the market value multiplied by the classification tax rate as
 9 provided for in Title 15, chapter 6, part 1.

10 ~~(x)~~(y) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed
 11 by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local
 12 fees and assessments.

13 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
 14 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
 15 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

16 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
 17 board."

18

19 **Section 27.** Section 15-1-102, MCA, is amended to read:

20 "**15-1-102. Person defined.** As used in this title ~~(except chapters 30 and 31)~~, unless the context
 21 indicates otherwise, the term "person" means an individual, corporation (domestic or foreign), partnership,
 22 association, joint-stock company, or syndicate."

23

24 **Section 28.** Section 15-1-110, MCA, is amended to read:

25 "**15-1-110. Rulemaking authority.** The department may adopt rules to administer and enforce the
 26 provisions of 15-1-108 ~~and 15-1-109.~~"

27

28 **Section 29.** Section 15-1-121, MCA, is amended to read:

29 "**15-1-121. Entitlement share payment -- purpose -- appropriation.** (1) As described in 15-1-120(3),
 30 each local government is entitled to an annual amount that is the replacement for revenue received by local

1 governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant
2 to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later
3 enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other
4 revenue in the state treasury with each local government's share. The reimbursement under this section is
5 provided by direct payment from the state treasury rather than the ad hoc system that offset certain state
6 payments with local government collections due the state and reimbursements made by percentage splits, with
7 a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending
8 a portion to other local governments.

9 (2) The sources of dedicated revenue that were relinquished by local governments in exchange for an
10 entitlement share of the state general fund were:

11 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
12 584, Laws of 1999;

13 (b) vehicle, boat, and aircraft taxes and fees pursuant to:

14 (i) Title 23, chapter 2, part 5;

15 (ii) Title 23, chapter 2, part 6;

16 (iii) Title 23, chapter 2, part 8;

17 (iv) 61-3-317;

18 (v) 61-3-321;

19 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
20 of 61-3-509 in 2001;

21 (vii) Title 61, chapter 3, part 7;

22 (viii) 5% of the fees collected under 61-10-122;

23 (ix) 61-10-130;

24 (x) 61-10-148; and

25 (xi) 67-3-205;

26 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

27 (d) district court fees pursuant to:

28 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

29 (ii) 25-1-202;

30 (iii) 25-9-506; and

- 1 (iv) 27-9-103;
- 2 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- 3 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- 4 (g) all beer, liquor, and wine taxes pursuant to:
- 5 (i) 16-1-404;
- 6 (ii) 16-1-406; and
- 7 (iii) 16-1-411;
- 8 (h) late filing fees pursuant to 61-3-220;
- 9 (i) title and registration fees pursuant to 61-3-203;
- 10 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
- 11 (k) county personalized license plate fees pursuant to 61-3-406;
- 12 (l) special mobile equipment fees pursuant to 61-3-431;
- 13 (m) single movement permit fees pursuant to 61-4-310;
- 14 (n) state aeronautics fees pursuant to 67-3-101; and
- 15 (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
- 16 chapter 1, part 5.

17 (3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in

18 the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent

19 fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any

20 reimbursement payments received pursuant to subsection (7), is each local government's base component.

21 Subject to subsection (3)(b), the sum of all local governments' base components is the fiscal year entitlement

22 share pool.

23 (b) For fiscal year 2016, the fiscal year entitlement share pool is reduced by \$1,049,904.

24 (4) (a) Subject to subsection (3)(b), the base entitlement share pool must be increased annually by an

25 entitlement share growth rate as provided for in this subsection (4). The amount determined through the

26 application of annual growth rates is the entitlement share pool for each fiscal year.

27 (b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share

28 pool for the next fiscal year in the following manner:

29 (i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of

30 state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the

1 statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second
 2 previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g)
 3 divided by the sum of the revenue for the second and third previous completed fiscal years received from the
 4 same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous
 5 completed fiscal years received from ~~individual income~~ sales and use tax as provided in Title 15, chapter ~~30~~ 68,
 6 ~~and corporate income tax as provided in Title 15, chapter 31~~, divided by the sum of the revenue for the second
 7 and third previous completed fiscal years received from the same sources multiplied by 0.25.

8 (ii) Except as provided in subsection (4)(b)(iii), the entitlement share growth rate is the lesser of:

9 (A) the sum of the first factor plus the second factor; or

10 (B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

11 (iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the
 12 entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to
 13 determine the subsequent fiscal year payment.

14 (iv) For fiscal year 2016, the entitlement share growth rate is applied to the most recently completed fiscal
 15 year entitlement payment minus \$1,049,904 to determine the subsequent fiscal year payment.

16 (5) As used in this section, "local government" means a county, a consolidated local government, an
 17 incorporated city, and an incorporated town. A local government does not include a tax increment financing
 18 district provided for in subsection (8). The county or consolidated local government is responsible for making an
 19 allocation from the county's or consolidated local government's share of the entitlement share pool to each special
 20 district within the county or consolidated local government in a manner that reasonably reflects each special
 21 district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each
 22 special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

23 (6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2)
 24 for local governments, the funding provided for in subsection (8) of this section, and the amounts determined
 25 under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from
 26 the general fund to the department for distribution to local governments. Except for the distribution made under
 27 15-1-123(2)(b), the distributions must be made on a quarterly basis.

28 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
 29 and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be
 30 calculated separately for:

- 1 (A) counties;
- 2 (B) consolidated local governments; and
- 3 (C) incorporated cities and towns.
- 4 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:
- 5 (A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal
- 6 year entitlement share pool for all counties; and
- 7 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
- 8 population bears to the state population not residing within consolidated local governments as determined by the
- 9 latest interim year population estimates from the Montana department of commerce as supplied by the United
- 10 States bureau of the census.
- 11 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
- 12 follows:
- 13 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
- 14 percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and
- 15 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
- 16 government's population bears to the state's total population residing within consolidated local governments as
- 17 determined by the latest interim year population estimates from the Montana department of commerce as
- 18 supplied by the United States bureau of the census.
- 19 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:
- 20 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
- 21 percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and
- 22 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
- 23 population bears to the state's total population residing within incorporated cities and towns as determined by the
- 24 latest interim year population estimates from the Montana department of commerce as supplied by the United
- 25 States bureau of the census.
- 26 (v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments
- 27 made under subsection (7) are applied is to be distributed to each local government in the same manner as the
- 28 entitlement share pool was distributed in the prior fiscal year.
- 29 (7) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
- 30 the department shall determine the reimbursement amount as provided in the enactment and add the appropriate

1 amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal
 2 year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool.
 3 The ratio of each local government's distribution from the entitlement share pool must be recomputed to
 4 determine each local government's ratio to be used in the subsequent year's distribution determination under
 5 subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

6 (8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a
 7 tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax
 8 increment financing district is not entitled to any funding. If a tax increment financing district referred to in
 9 subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

10 (b) Except for the reimbursement made under 15-1-123(4)(b), one-half of the payments provided for in
 11 this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to
 12 subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

| | | | |
|----|------------|------------------------|---------|
| 13 | Deer Lodge | TIF District 1 | \$2,833 |
| 14 | Deer Lodge | TIF District 2 | 2,813 |
| 15 | Flathead | Kalispell - District 2 | 4,638 |
| 16 | Flathead | Kalispell - District 3 | 37,231 |
| 17 | Flathead | Whitefish District | 148,194 |
| 18 | Gallatin | Bozeman - downtown | 31,158 |
| 19 | Missoula | Missoula - 1-1C | 225,251 |
| 20 | Missoula | Missoula - 4-1C | 30,009 |
| 21 | Silver Bow | Butte - uptown | 255,421 |

22 (9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local
 23 governments do not include revenue received from tax increment financing districts, from countywide
 24 transportation block grants, or from countywide retirement block grants.

25 (10) When there has been an underpayment of a local government's share of the entitlement share pool,
 26 the department shall distribute the difference between the underpayment and the correct amount of the
 27 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
 28 government shall remit the overpaid amount to the department.

29 (11) A local government may appeal the department's estimation of the base component, the entitlement

1 share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform
2 dispute review procedure in 15-1-211.

3 (12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by
4 a local government in accordance with Title 17, chapter 4, part 1."

5

6 **Section 30.** Section 15-1-205, MCA, is amended to read:

7 **"15-1-205. Biennial report -- contents.** (1) The department shall transmit to the governor 20 days
8 before the meeting of the legislature and make available to the legislature and the public a report of the
9 department showing all the taxable property of the state, counties, and cities and its value. The department shall
10 follow the provisions of 5-11-210 in preparing the report for the legislature.

11 (2) The report must also include the statewide average effective tax rate of taxable property in each class
12 of property. The department may determine whether an appropriate effective tax rate may be derived for net
13 proceeds, gross proceeds, agricultural land, and forest land.

14 (3) The report or supplements to the report must also include:

15 (a) the gross dollar amount of revenue loss attributable to:

16 ~~—— (i) personal income and corporate income tax exemptions;~~

17 ~~(ii)(i)~~ property tax exemptions for which application to the department is necessary;

18 ~~(iii)(ii)~~ deferral of income;

19 ~~—— (iv) credits allowed against Montana personal income tax or Montana corporate income tax, reported~~
20 ~~separately;~~

21 ~~(v)(iii)~~ deductions from income; and

22 ~~(vi)(iv)~~ any other identifiable preferential treatment of income or property;

23 (b) any change in tax revenue of the state or any unit of local government attributable to a change in
24 federal tax law;

25 (c) any change in the revenue of any unit of local government attributable to a change in state tax law;

26 (d) the year of enactment and provision of the Montana Code Annotated granting the tax benefits in
27 subsection (3)(a); and

28 (e) the number of taxpayers benefiting from each of the tax provisions listed in subsection (3)(a).

29 (4) A distributional analysis of the data described in subsection (3) must be related to the income level
30 and age of the taxpayer whenever the information is available.

1 (5) (a) When reporting the data described in subsection (3)(a), the department shall identify any known
2 purpose of the preferential treatment.

3 (b) Based upon the purpose of the preferential treatment, the department shall outline the available data
4 necessary to determine the effectiveness of the preferential treatment.

5 (6) In reporting the data described in subsection (3), the department shall report any comparable data,
6 if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the department may
7 choose.

8 (7) The department shall identify in a separate section of the report any changes that have been made
9 or that are contemplated in property appraisal or assessment.

10 (8) The department may include a report, prepared by the department of transportation, showing the
11 selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states
12 during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

13 (9) The department shall provide an internet version of the report free of charge to the public and shall
14 charge a fee for paper copies that is commensurate with the cost of printing the report."
15

16 **Section 31.** Section 15-1-211, MCA, is amended to read:

17 **"15-1-211. Uniform dispute review procedure -- notice -- appeal.** (1) The department shall provide
18 a uniform dispute review procedure for all persons or other entities, except as provided in subsection (1)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (e) the right to request alternative dispute resolution methods, including mediation.

24 (5) The department shall:

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

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

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

30 (6) (a) (i) The director of ~~revenue~~ the department or the director's designee is authorized to enter into

1 an agreement with a person or other entity relating to a matter administered by the department.

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

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

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

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

11

12 **Section 32.** Section 15-1-216, MCA, is amended to read:

13 **"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability**

14 **-- exceptions -- uniform provision for interest on overpayments.** (1) A person who fails to file a required tax
15 return or other report with the department by the due date of the return or report, including any extension of time
16 allowed for in ~~Title 15, chapter 30 or 31~~, must be assessed a late filing penalty. The penalty is the greater of \$50
17 or 5% of the tax due for each month during which there is a failure to file the return or report, not to exceed an
18 amount up to 25% of the tax due. The late filing penalty is calculated from the due date or extended due date until
19 the department actually receives the late return or report. The penalty is computed only on the net amount of tax
20 due, if any, as of the original due date or extended due date ~~provided for in Title 15, chapter 30 or 31~~, after credit
21 has been given for amounts paid through withholding, estimated tax payments, or other credits claimed on the
22 return.

23 (2) (a) (i) Except as provided in subsections (2)(a)(ii), (2)(b), and (2)(d), a person who fails to pay a tax
24 when due must be assessed a late payment penalty of 0.5% a month on the unpaid tax. The penalty may not
25 exceed 12% of the tax due.

26 (ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

27 (A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the
28 first notice from the department to the taxpayer of the amount due; or

29 (B) ~~subject to the conditions of 15-30-2512(1)(a)(i)~~, the taxpayer pays at least 90% of the tax, when due,
30 for the current year.

1 (b) (i) Except as provided in subsections (2)(b)(ii) and (2)(d), a person who fails to pay a tax when due
 2 under Title 15, ~~chapter 30, part 25~~, chapter 53, chapter 65, or chapter 68, or Title 53, chapter 19, part 3, must be
 3 assessed a late payment penalty of 1.5% a month on the unpaid tax. The penalty may not exceed 15% of the tax
 4 due.

5 (ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest
 6 due with the tax return or report within 30 days following the first notice from the department to the taxpayer of
 7 the amount due.

8 (c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the
 9 original due date of the return regardless of whether the taxpayer has received an extension of time for filing a
 10 return.

11 (d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the
 12 taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

13 (3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed
 14 under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement
 15 penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement"
 16 means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the
 17 taxpayer reported on the return. For purposes of this subsection (3):

18 ~~—— (i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for~~
 19 ~~Title 15, chapter 30, part 33, if the understatement exceeds the greater of 10% of the amount of tax required to~~
 20 ~~be shown on the return or \$3,000; and~~

21 (ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15,
 22 including ~~Title 15, chapter 30, part 33, and for~~ Title 16, chapter 11, and Title 53, chapter 19, part 3, if the
 23 understatement exceeds the lesser of:

24 ~~(A)(i)~~ 10% of the amount of tax required to be shown on the return if the understatement is greater than
 25 \$10,000; or

26 ~~(B)(ii)~~ \$500,000.

27 (b) The amount of substantial understatement of tax penalty must be reduced by the amount of the
 28 understatement that is attributable to:

29 (i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment;

30 or

1 (ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the
2 return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item
3 by the taxpayer.

4 (4) ~~(a) Except as provided in subsection (4)(b), a~~ A person who purposely or knowingly, as those terms
5 are defined in 45-2-101, fails to file a return or report as required under Title 15 when due or fails to file a return
6 or report within 60 days after receiving written notice from the department that a return or report must be filed is
7 liable for an additional penalty of 15% of the tax due for each month or fraction of a month during which the
8 person purposely or knowingly fails to file a return or report, but not to exceed 75% of the tax due as determined
9 by the department. The department may bring an action in the name of the state to recover the penalty and any
10 delinquent taxes.

11 ~~(b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return~~
12 ~~or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days~~
13 ~~after receiving written notice from the department that a return or report must be filed is liable for an additional~~
14 ~~penalty of \$1,000. The department may bring an action in the name of the state to recover the penalty and any~~
15 ~~delinquent taxes.~~

16 (5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty
17 of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or
18 report. The department may bring an action in the name of the state to recover the penalty, interest, and any
19 delinquent taxes.

20 (b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under
21 Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit
22 claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount
23 paid.

24 (6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty
25 imposed, for a penalty of \$2,500. A frivolous return or report is one that is filed by a person and that omits
26 information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on
27 a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are
28 those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may
29 bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

30 (7) (a) Interest on taxes not paid when due must be assessed by the department. ~~The department shall~~

1 ~~determine the interest rate established under subsection (7)(a)(i) for each calendar year by rule subject to the~~
 2 ~~conditions of this subsection (7)(a). Interest rates on The interest rate for all taxes not paid when due for a~~
 3 ~~calendar year are as follows:~~

4 ~~(i) (A) For individual income taxes not paid when due, including delinquent taxes and deficiency~~
 5 ~~assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the~~
 6 ~~secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code,~~
 7 ~~26 U.S.C. 6621, for the fourth quarter of the preceding year or 8%, whichever is greater.~~

8 ~~(B) Beginning January 1, 2018, for individual income taxes not paid when due, including delinquent taxes~~
 9 ~~and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers~~
 10 ~~established by the secretary of the United States department of the treasury pursuant to section 6621 of the~~
 11 ~~Internal Revenue Code, 26 U.S.C. 6621, for the third quarter of the preceding year.~~

12 ~~(ii) For all taxes other than individual income taxes not paid when due, including delinquent taxes and~~
 13 ~~deficiency assessments, the interest rate is 12% a year.~~

14 (b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date
 15 of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return
 16 regardless of whether the taxpayer has received an extension of time for filing the return.

17 (8) (a) Except as provided in subsection (8)(b), this section applies to taxes, fees, remittances, and other
 18 assessments imposed under Title 15, Title 16, and Title 53, chapter 19, part 3.

19 (b) This section does not apply to:

20 (i) property taxes; or

21 (ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15,
 22 chapter 70.

23 (9) Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in
 24 effect at the time the tax accrued.

25 (10) Penalty and interest must be calculated and assessed commencing with the due date of the return.

26 (11) Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

27 (12) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or
 28 delinquent taxes. For the purposes of this subsection (12), interest charged for unpaid or delinquent taxes is the
 29 interest rate determined in subsection (7)(a)(i). ~~(Subsection (7)(a)(i)(A) terminates December 31, 2017--sec. 18,~~
 30 ~~Ch. 308, L. 2015.)"~~

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Section 33. Section 15-1-302, MCA, is amended to read:

"15-1-302. Witnesses -- oaths, contempt, and fees. (1) Oaths to witnesses in any investigation by the department may be administered by the director of ~~revenue~~ the department or the director's agent.

(2) ~~(a)~~ If a witness fails to obey a summons to appear before the department or refuses to testify or answer any material question or to produce records, books, papers, or documents when required to do so, the department shall institute proceedings in the district court to compel obedience to a summons or order of the board or to punish the witness for neglect or refusal to obey the summons.

~~(b) As required by 15-30-2509, the department, in addition to instituting proceedings to compel obedience to a summons or order shall, as a part of the proceedings, request the court to issue an order requiring the payment of all penalties assessed for the employer's failure to report.~~

(3) A person who testifies falsely in any material matter under consideration by the department is guilty of perjury and shall be punished accordingly.

(4) Witnesses attending an investigation by the department must receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the department."

Section 34. Section 15-1-503, MCA, is amended to read:

"15-1-503. Refund of overpayment -- procedure. (1) When there has been an overpayment of the estate tax collected by county treasurers or any other tax collected by the department and there is no law providing for a refund, the department shall refund the amount of the overpayment to the taxpayer, plus any interest and penalty due the taxpayer, as provided in subsection (2).

(2) A refund or payment is not allowed unless a claim is filed by the taxpayer before the expiration of 5 years from the time that the tax was paid. Within 6 months after the claim is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and shall grant a hearing on the claim. If the department disapproves a claim after holding a hearing, the determination of the department may be reviewed as provided by ~~15-30-2608~~ 15-2-303."

Section 35. Section 15-2-201, MCA, is amended to read:

1 **"15-2-201. Powers and duties.** (1) ~~It is the duty of the~~ The state tax appeal board ~~to~~ shall:

2 (a) prescribe rules for the tax appeal boards of the different counties in the performance of their duties
3 and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all invited county
4 tax appeal board members to attend if possible, and the cost of their attendance must be paid from the
5 appropriation of the state tax appeal board;

6 (b) grant, at its discretion, whenever good cause is shown and the need for the hearing is not because
7 of taxpayer negligence, permission to a county tax appeal board to meet beyond the normal time period provided
8 for in 15-15-101(4) to hear an appeal;

9 (c) hear appeals from decisions of the county tax appeal boards; and

10 (d) hear appeals from decisions of the department of revenue in regard to business licenses, property
11 assessments, taxes, ~~except determinations that an employer-employee relationship existed between the taxpayer~~
12 ~~and individuals subjecting the taxpayer to the requirements of chapter 30, part 25, and penalties.~~

13 (2) Oaths to witnesses in any investigation by the state tax appeal board may be administered by a
14 member of the board or the member's agent. If a witness does not obey a summons to appear before the board
15 or refuses to testify or answer any material questions or to produce records, books, papers, or documents when
16 required to do so, that failure or refusal must be reported to the attorney general, who shall thereupon institute
17 proceedings in the proper district court to punish the witness for the neglect or refusal. A person who testifies
18 falsely in any material matter under consideration by the board is guilty of perjury and punished accordingly.
19 Witnesses attending shall receive the same compensation as witnesses in the district court. The compensation
20 must be charged to the proper appropriation for the board.

21 (3) The state tax appeal board also has the duties of an appeal board relating to other matters as may
22 be provided by law."
23

24 **Section 36.** Section 15-6-224, MCA, is amended to read:

25 **"15-6-224. Nonfossil energy generation.** (1) The following portions of the appraised value of a capital
26 investment in a recognized nonfossil form of energy generation or low-emission wood or biomass combustion
27 devices, ~~as defined in 15-32-102,~~ are exempt from taxation for a period of 10 years following installation of the
28 property:

29 ~~(1)~~(a) \$20,000 in the case of a single-family residential dwelling;

30 ~~(2)~~(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

1 (2) For the purpose of this section, the following definitions apply:

2 (a) "Alternative energy system" means the generation system or equipment used to convert energy
3 sources into usable sources using fuel cells that do not require hydrocarbon fuel, geothermal systems,
4 low-emission wood or biomass, wind, photovoltaics, geothermal, small hydropower plants under 1 megawatt, or
5 other recognized nonfossil forms of energy generation.

6 (b) "Building" means:

7 (i) a single or multiple dwelling, including a mobile home or manufactured home; or

8 (ii) a building used for commercial, industrial, or agricultural purposes that is enclosed with walls and a
9 roof.

10 (c) "Capital investment" means any material or equipment purchased and installed in a building or land
11 with or without improvements.

12 (d) "Geothermal system" means a system that transfers energy either from the ground, by way of a
13 closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a residential
14 building.

15 (e) "Low-emission wood or biomass combustion device" means:

16 (i) a wood-burning appliance that is:

17 (A) certified by the U.S. environmental protection agency pursuant to 40 CFR 60.533; or

18 (B) qualified for the phase 2 white tag under the U.S. environmental protection agency method 28 OWHH,
19 for outdoor hydronic heaters;

20 (ii) an appliance that uses wood pellets as its primary source of fuel; or

21 (iii) a masonry heater constructed or installed in compliance with the requirements for masonry heaters
22 in the International Residential Code for One- and Two-Family Dwellings.

23 (f) "Passive solar system" means a direct thermal energy system that uses the structure of a building
24 and its operable components to provide heating or cooling during the appropriate times of the year by using the
25 climate resources available at the site. The term includes only those portions and components of a building that
26 are expressly designed and required for the collection, storage, and distribution of solar energy and that are not
27 standard components of a conventional building.

28 (g) "Recognized nonfossil form of energy generation" means:

29 (i) a system that captures energy or converts energy sources into usable sources, including electricity,
30 by using:

- 1 (A) solar energy, including passive solar systems;
2 (B) wind;
3 (C) solid waste;
4 (D) the decomposition of organic wastes;
5 (E) geothermal;
6 (F) fuel cells that do not require hydrocarbon fuel; or
7 (G) an alternative energy system;
8 (ii) a system that produces electric power from biomass or solid wood wastes; or
9 (iii) a small system that uses water power by means of an impoundment that is not over 20 acres in
10 surface area."

11

12 **Section 37.** Section 15-6-301, MCA, is amended to read:

13 **"15-6-301. Definitions.** As used in this part, the following definitions apply:

14 (1) "Annual verification" means the use of a process to:

15 (a) verify an applicant's income;

16 (b) approve, renew, or deny benefits for the current year based upon the applicant's eligibility; and

17 (c) terminate participation based upon death or loss of status as a qualified veteran or veteran's spouse.

18 (2) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly

19 in the survey of current business by the bureau of economic analysis of the U.S. department of commerce.

20 (3) "PCE inflation factor" for a tax year means the PCE for April of the prior tax year before the tax year
21 divided by the PCE for April 2015.

22 (4) (a) "Primary residence" is, subject to the provisions of subsection (4)(b), a dwelling:

23 (i) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for which
24 benefits are claimed;

25 (ii) that is the only residence for which property tax assistance is claimed; and

26 (iii) determined using the indicators provided for in the rules authorized by 15-6-302(2).

27 (b) A primary residence may include more than one dwelling when the taxpayer resides in one dwelling
28 for less than 7 months during the tax year and another dwelling for less than 7 months of the same tax year, but
29 lives in the dwellings for more than 7 months of the tax year.

30 (5) "Qualified veteran" means a veteran:

- 1 (a) who was killed while on active duty or died as a result of a service-connected disability; or
 2 (b) if living:
 3 (i) was honorably discharged from active service in any branch of the armed services; and
 4 (ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of
 5 veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department
 6 of veterans affairs.
- 7 (6) "Qualifying income" means:
 8 (a) the federal adjusted gross income excluding capital and income losses of an applicant and the
 9 applicant's spouse ~~as calculated on the Montana income tax return~~ for the prior year;
 10 (b) for assistance under ~~15-6-305~~ [15-6-311], the federal adjusted gross income excluding capital and
 11 income losses of an applicant ~~as calculated on the Montana income tax return~~ for the prior tax year; or
 12 (c) for an applicant who is not required to file a ~~Montana income~~ federal tax return, the income
 13 determined using available income information.
- 14 (7) "Residential real property" means the land and improvements of a taxpayer's primary residence."
 15

16 **Section 38.** Section 15-7-102, MCA, is amended to read:

- 17 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)
 18 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser
 19 under contract for deed a notice that includes the land classification, market value, and taxable value of the land
 20 and improvements owned or being purchased. A notice must be mailed to the owner only if one or more of the
 21 following changes pertaining to the land or improvements have been made since the last notice:
 22 (i) change in ownership;
 23 (ii) change in classification;
 24 (iii) change in valuation; or
 25 (iv) addition or subtraction of personal property affixed to the land.
- 26 (b) The notice must include the following for the taxpayer's informational purposes:
 27 (i) a notice of the availability of ~~all~~ the property tax assistance programs available to property taxpayers;
 28 ~~including the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential~~
 29 ~~property tax credit for the elderly provided for in 15-30-2337 through 15-30-2344;~~
 30 (ii) the total amount of mills levied against the property in the prior year; and

- 1 (iii) a statement that the notice is not a tax bill.
- 2 (c) When the department uses an appraisal method that values land and improvements as a unit,
3 including the sales comparison approach for residential condominiums or the income approach for commercial
4 property, the notice must contain a combined appraised value of land and improvements.
- 5 (d) Any misinformation provided in the information required by subsection (1)(b) does not affect the
6 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.
- 7 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
8 correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or
9 electronic form, adopted by the department, containing sufficient information in a comprehensible manner
10 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
11 the prior tax year.
- 12 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
13 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.
- 14 (c) The department is not required to mail or provide electronically the notice to a new owner or
15 purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk
16 and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
17 (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date
18 of the mailing or the date when the taxpayer is informed the information is available electronically.
- 19 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
20 market value of the property as determined by the department or with the classification of the land or
21 improvements, the owner may request an assessment review by submitting an objection on written or electronic
22 forms provided by the department for that purpose.
- 23 (i) For property other than class three property described in 15-6-133, class four property described in
24 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the
25 date on the notice.
- 26 (ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the
27 objection may be made only once each valuation cycle. An objection must be made within 30 days from the date
28 on the assessment notice for a reduction in the appraised value to be considered for both years of the 2-year
29 appraisal cycle. Any reduction in value resulting from an objection made more than 30 days from the date of the
30 assessment notice will be applicable only for the second year of the 2-year reappraisal cycle.

1 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only once
2 each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a
3 reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. Any reduction in
4 value resulting from an objection made more than 30 days after the date of the assessment notice applies only
5 for the subsequent remaining years of the 6-year reappraisal cycle.

6 (b) If the objection relates to residential or commercial property and the objector agrees to the
7 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
8 8 weeks of submission of the objection, the following information:

9 (i) the methodology and sources of data used by the department in the valuation of the property; and

10 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that the
11 methodology was used.

12 (c) At the request of the objector, and only if the objector signs a written or electronic confidentiality
13 agreement, the department shall provide in written or electronic form:

14 (i) comparable sales data used by the department to value the property; and

15 (ii) sales data used by the department to value residential property in the property taxpayer's market
16 model area.

17 (d) For properties valued using the income approach as one approximation of market value, notice must
18 be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of
19 all aggregate model output that the department used in the valuation model for the property.

20 (e) The review must be conducted informally and is not subject to the contested case procedures of the
21 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling
22 price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion
23 as to the market value of the property. The ~~county tax appeal board~~ [department] shall consider an independent
24 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
25 appraisers and the appraisal was conducted within 6 months of the valuation date. If the department does not
26 use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer
27 the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time
28 and place of the review.

29 (f) After the review, the department shall determine the correct appraisal and classification of the land
30 or improvements and notify the taxpayer of its determination by mail or electronically. The department may not

1 determine an appraised value that is higher than the value that was the subject of the objection unless the reason
2 for an increase was the result of a physical change in the property or caused by an error in the description of the
3 property or data available for the property that is kept by the department and used for calculating the appraised
4 value. In the notification, the department shall state its reasons for revising the classification or appraisal. When
5 the proper appraisal and classification have been determined, the land must be classified and the improvements
6 appraised in the manner ordered by the department.

7 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
8 appraisal or classification upon the taxpayer's objection unless:

9 (a) the taxpayer has submitted an objection on written or electronic forms provided by the department;
10 and

11 (b) the department has provided to the objector by mail or electronically its stated reason in writing for
12 making the adjustment.

13 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
14 taxpayer of its determination and the reason for that determination are public records. The department shall make
15 the records available for inspection during regular office hours.

16 (6) If a property owner feels aggrieved by the classification or appraisal made by the department after
17 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
18 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
19 The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on
20 the notice of the department's determination. A county tax appeal board or the state tax appeal board may
21 consider the actual selling price of the property, independent appraisals of the property, and other relevant
22 information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal
23 board or the state tax appeal board determines that an adjustment should be made, the department shall adjust
24 the base value of the property in accordance with the board's order."
25

26 **Section 39.** Section 15-10-420, MCA, is amended to read:

27 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
28 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
29 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
30 years. The maximum number of mills that a governmental entity may impose is established by calculating the

1 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
2 prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of
3 the average rate of inflation for the prior 3 years.

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

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

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

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

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

16 (ii) construction, expansion, or remodeling of improvements;

17 (iii) transfer of property into a taxing unit;

18 (iv) subdivision of real property; and

19 (v) transfer of property from tax-exempt to taxable status.

20 (b) Newly taxable property does not include an increase in value that arises because of an increase in
21 the incremental value within a tax increment financing district.

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

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

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

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

27 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
28 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
29 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
30 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

1 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
2 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
3 year market value of that property less the previous year market value of that property.

4 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
5 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
6 agricultural land as described in 15-6-133(1)(c).

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

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

9 (b) a mill levy imposed for a newly created regional resource authority.

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

12 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

13 (a) may increase the number of mills to account for a decrease in reimbursements; and

14 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
15 that is reimbursed under the provisions of 15-1-121(7).

16 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
17 of 15-10-108, 20-9-331, 20-9-333, ~~20-9-360~~, and 20-25-439. However, the number of mills calculated by the
18 department may not exceed the mill levy limits established in those sections. The mill calculation must be
19 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
20 calculation must be rounded up to the nearest tenth of a mill.

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

22 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

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

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

25 (iv) a levy for the support of a study commission under 7-3-184;

26 (v) a levy for the support of a newly established regional resource authority;

27 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
28 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

29 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
30 county under 7-2-2807 upon relocation of a county boundary.

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

3 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
4 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
5 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
6 funds by a county or municipality during that time.

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

11 **Section 40.** Section 15-16-101, MCA, is amended to read:

12 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
13 of the property tax record, the county treasurer shall publish a notice specifying:

14 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
15 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
16 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
17 until paid and 2% will be added to the delinquent taxes as a penalty;

18 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next
19 May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6
20 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
21 and

22 (c) the time and place at which payment of taxes may be made.

23 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
24 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
25 and delinquent for other years. The written notice must include:

26 (i) the taxable value of the property;

27 (ii) the total mill levy applied to that taxable value;

28 (iii) itemized city services and special improvement district assessments collected by the county;

29 (iv) the number of the school district in which the property is located;

30 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and

1 other tax; and

2 (vi) a notice of the availability of all the property tax assistance programs available to property taxpayers,
3 including the property tax assistance programs under Title 15, chapter 6, part 3, ~~and the residential property tax~~
4 ~~credit for the elderly under 15-30-2337 through 15-30-2341.~~

5 (b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued
6 under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the
7 property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete
8 information.

9 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
10 under subsection (2)(a)(iii) ready for mailing.

11 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper
12 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish
13 or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the
14 current year or of delinquent tax will not affect the legality of the tax.

15 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
16 tax is not owed and a new tax bill does not need to be prepared."

17

18 **Section 41.** Section 15-24-1402, MCA, is amended to read:

19 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
20 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
21 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
22 taxable value. Subject to 15-10-420, each succeeding year ~~thereafter~~, the percentage must be increased by equal
23 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
24 taxed at 100% of its taxable value.

25 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must
26 have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected
27 county or the incorporated city or town must have approved by separate resolution for each project, following due
28 notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the
29 use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant
30 approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not

1 preclude approval.

2 (b) The governing body shall:

3 (i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment
4 provided for in this section; and

5 (ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and
6 deny or approve it within 120 days of receiving the application as provided in subsection (2)(b)(i).

7 (c) If the governing body fails to hold a hearing or deny or approve the application within 120 days of
8 receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city,
9 or town is located a writ of mandamus to compel the governing body to make a determination.

10 (d) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
11 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

12 (e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
13 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
14 resolution may provide that real property other than land, personal property, improvements, or any combination
15 thereof of land, personal property, or improvements is eligible for the tax benefits described in subsection (1).

16 (f) Property taxes abated from the reduction in taxable value allowed by this section are subject to
17 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
18 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(e) of this section. The recapture
19 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided
20 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The
21 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
22 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
23 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
24 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
25 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
26 of the taxpayer.

27 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
28 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
29 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the
30 tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the

1 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

2 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
3 for local high school district and elementary school district purposes and to the number of mills levied and
4 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
5 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
6 20-9-331, or 20-9-333, or 20-9-360 or otherwise required under state law.

7 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
8 all taxing jurisdictions affected by the tax benefit."
9

10 **Section 42.** Section 15-24-1410, MCA, is amended to read:

11 **"15-24-1410. (Temporary) Manufacturer of ammunition components -- exemption from statewide**
12 **property taxes.** As provided in 30-20-204, property used in the manufacture of ammunition components is
13 exempt from the property taxes levied for state educational purposes under 15-10-108, 20-9-331, 20-9-333,
14 ~~20-9-360~~, and 20-25-439. The exemption must be administered and applied for as provided in Title 30, chapter
15 20, part 2. (Terminates December 31, 2024--sec. 16, Ch. 440, L. 2015.)"
16

17 **Section 43.** Section 15-38-109, MCA, is amended to read:

18 **"15-38-109. Restricted access to records.** ~~The information furnished by the producer to the department~~
19 ~~for the purpose of this chapter must be treated as provided in 15-31-511 (1) Except as provided in this section,~~
20 in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make
21 known in any manner:

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

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

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

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

30 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of

1 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

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

5 (3) This section does not prohibit:

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

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

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

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

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

20 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the
21 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

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

23 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
24 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
25 (1);

26 (b) provide tax information to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the
27 office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the
28 legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on
29 disclosure outside those offices as provided in subsection (1).

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

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

4 (5) A person convicted of violating this section shall be fined an amount not to exceed \$500. If a public
5 officer or public employee is convicted of violating this section, the person is dismissed from office or employment
6 and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in
7 the case of a former officer or employee, for 1 year after conviction."

8

9 **Section 44.** Section 15-39-110, MCA, is amended to read:

10 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine
11 the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that
12 produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (9).

13 (b) For each semiannual period, the department shall determine the amount of tax, late payment interest,
14 and penalties collected under this part from bentonite mines that first began producing bentonite after December
15 31, 2004. The tax is distributed as provided in subsection (10).

16 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)
17 through (9) is allocated according to the following schedule:

18 (a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the
19 purposes of the state tax levy as provided in 15-10-108;

20 (b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided
21 in 20-9-331; and 20-9-333, and 20-9-360;

22 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing
23 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under
24 15-10-108, 20-9-331, and 20-9-333, and 20-9-360; and

25 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing
26 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under
27 15-10-108, 20-9-331, and 20-9-333, and 20-9-360.

28 (3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60%
29 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must
30 be distributed as provided in subsection (10).

1 (4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50%
2 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must
3 be distributed as provided in subsection (10).

4 (5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40%
5 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must
6 be distributed as provided in subsection (10).

7 (6) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30%
8 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must
9 be distributed as provided in subsection (10).

10 (7) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20%
11 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must
12 be distributed as provided in subsection (10).

13 (8) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10%
14 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must
15 be distributed as provided in subsection (10).

16 (9) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of
17 the tax determined under subsection (1)(a) must be distributed as provided in subsection (10).

18 (10) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the
19 distribution percentages determined under subsections (3) through (9) are allocated according to the following
20 schedule:

21 (a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the
22 purposes of the state tax levy as provided in 15-10-108;

23 (b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided
24 in 20-9-331; and 20-9-333; ~~and 20-9-360~~;

25 (c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year
26 mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county
27 and state levies under 15-10-108, 20-9-331, and 20-9-333; ~~and 20-9-360~~.

28 (11) The department shall remit the amounts to be distributed in this section to the county treasurer by
29 the following dates:

30 (a) On or before October 1 of each year, the department shall remit the county's share of bentonite

1 production tax payments received for the semiannual period ending June 30 of the current year to the county
2 treasurer.

3 (b) On or before April 1 of each year, the department shall remit the county's share of bentonite
4 production tax payments received to the county treasurer for the semiannual period ending December 31 of the
5 previous year.

6 (12) (a) The department shall also provide to each county the amount of gross yield of value from
7 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
8 of value must be treated as taxable value for determining school district debt limits under 20-9-406.

9 (b) The percentage amount of the gross yield of value determined under subsection (12)(a) must be
10 treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding
11 provisions as provided by law.

12 (13) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department
13 for distribution as provided in this section."
14

15 **Section 45.** Section 15-68-101, MCA, is amended to read:

16 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
17 following definitions apply:

18 (1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites
19 that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

20 (b) ~~Accommodations~~ The term includes a facility represented to the public as a hotel, motel,
21 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed
22 and breakfast facility.

23 (c) The term does not include ~~a health care facility, as defined in 50-5-101, any facility owned by a~~
24 ~~corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for~~
25 ~~camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average~~
26 ~~daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under~~
27 ~~2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented~~
28 solely on a monthly basis or for a period of 30 days or more.

29 (2) ~~(a)~~ "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

30 ~~(b) The term does not include payment for admittance to a movie theater or to a sporting event~~

1 ~~sanctioned by a school district, college, or university.~~

2 (3) "Agreement" means the Streamlined Sales Tax and Use Tax Agreement provided for in [sections 1
3 through 7].

4 (4) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2
5 of 1% or more of alcohol by volume.

6 ~~(5)~~(5) (a) "Base rental charge" means the following:

7 (i) charges for time of use of the rental vehicle and mileage, if applicable;

8 (ii) charges accepted by the renter for personal accident insurance;

9 (iii) charges for additional drivers or underage drivers; and

10 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the
11 rental vehicle.

12 (b) The term does not include:

13 (i) rental vehicle price discounts allowed and taken;

14 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
15 privilege of operating as a concessionaire at an airport terminal building;

16 (iii) motor fuel;

17 (iv) intercity rental vehicle drop charges; or

18 (v) taxes imposed by the federal government or by state or local governments.

19 (6) "Camp" means a facility, place, or location in which persons are provided, for payment, instruction
20 or recreation in conjunction with room and board for a limited period of time, typically measured in days or weeks.

21 ~~(7)~~(7) (a) "Campground" means a place used for public camping where persons may camp, secure tents,
22 or park individual recreational vehicles for camping and sleeping purposes.

23 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
24 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
25 more.

26 (8) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in
27 combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

28 (b) The term does not include any preparation that contains flour and that requires refrigeration.

29 (9) "Certified automated system" has the meaning provided in [section 1].

30 (10) "Certified service provider" has the meaning provided in [section 1].

1 (11) "Computer" means an electronic device that accepts information in a digital or similar form and
2 manipulates it for a result based on a sequence of instructions.

3 (12) "Computer software" means a set of coded instructions designed to cause a computer or automatic
4 data processing equipment to perform a task.

5 (13) "Delivery charges" means charges by the seller of personal property or services for preparation and
6 delivery to a location designated by the purchaser of personal property or services, including but not limited to
7 transportation, shipping, postage, handling, crating, and packing.

8 (14) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

9 (a) contains one or more of the following dietary ingredients:

10 (i) a vitamin;

11 (ii) a mineral;

12 (iii) an herb or other botanical;

13 (iv) an amino acid;

14 (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

15 or

16 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in
17 subsections (14)(a)(i) through (14)(a)(v);

18 (b) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended
19 for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item
20 of a meal or of the diet; and

21 (c) is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found
22 on the label and as required pursuant to 21 CFR 101.36.

23 (15) "Drug" means a compound, substance, or preparation and any component of a compound,
24 substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

25 (a) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
26 United States, or official National Formulary and any supplement to them;

27 (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

28 (c) intended to affect the structure or any function of the body.

29 (16) (a) "Durable medical equipment" means equipment, including repair and replacement parts for
30 equipment, that:

- 1 (i) can withstand repeated use;
2 (ii) is primarily and customarily used to serve a medical purpose;
3 (iii) generally is not useful to a person in the absence of illness or injury; and
4 (iv) is not worn in or on the body.
5 (b) The term does not include mobility-enhancing equipment.
6 (17) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,
7 electromagnetic, or similar capabilities.
8 ~~(5)~~(18) "Engaging in business" means carrying on or causing to be carried on any activity with the
9 purpose of receiving direct or indirect benefit.
10 (19) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
11 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste
12 or nutritional value.
13 (b) The term includes alcoholic beverages, candy, dietary supplements, soft drinks, and tobacco.
14 (20) "Food sold through vending machines" means food dispensed from a machine or other mechanical
15 device that accepts payment.
16 (21) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste,
17 mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the
18 definition of over-the-counter drugs.
19 (22) "Guided recreation and sightseeing" means recreational activities or sightseeing in which a service
20 provider, for payment, accompanies or provides direction or instruction to the purchaser.
21 (23) "Insurance premiums" means premiums of an insurance company, a health service corporation, a
22 health maintenance organization, or a fraternal benefit society or of a producer of the company, corporation,
23 organization, or society.
24 ~~(6)~~(24) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
25 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
26 purchase or extend.
27 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
28 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
29 property, as defined in 26 U.S.C. 7701(h)(1).
30 (c) The term does not include:

1 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
2 that requires the transfer of title upon completion of the required payments;

3 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
4 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
5 or 1% of the total required payments; or

6 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
7 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

8 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
9 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
10 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

11 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive
12 impact on existing leases or rentals.

13 (25) "Livestock" has the meaning provided for in 15-1-101.

14 (26) "Maintaining an office or other place of business" means:

15 (a) a person having or maintaining within this state, directly or by a subsidiary, office, distribution house,
16 sales house, warehouse, or place of business; or

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

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

23 (b) The term does not include construction.

24 (28) (a) "Medical care" means services provided by a:

25 (i) clinical laboratory science practitioner;

26 (ii) chiropractor;

27 (iii) addiction counselor;

28 (iv) licensed professional counselor;

29 (v) dental hygienist;

30 (vii) dentist;

- 1 (viii) denturist;
2 (ix) hearing aid dispenser;
3 (x) massage therapist;
4 (xi) nurse;
5 (xii) medical facility, including but not limited to assisted living facilities, community homes for persons
6 with developmental disabilities, community homes for physically disabled persons, adult foster family care homes,
7 home health agencies, hospitals, infirmaries, kidney treatment centers, long-term care facilities, transitional living
8 facilities, nursing homes, and youth care facilities;
9 (xiii) occupational therapist;
10 (xiv) optometrist;
11 (xv) pharmacist;
12 (xvi) physical therapist;
13 (xvii) physician;
14 (xviii) podiatrist;
15 (xix) psychologist;
16 (xx) radiologic technologist;
17 (xxi) respiratory care practitioner;
18 (xxii) speech-language pathologist and audiologist;
19 (xxiii) licensed social worker;
20 (xxiv) marriage and family therapist; and
21 (xxv) surgeon.
22 (b) The term includes:
23 (i) services provided in direct support of the facilities and occupations in subsection (28)(a) by an
24 employee or independent contractor of the facility or service provider; and
25 (ii) any additional medical service or aid allowable under or provided by the federal Social Security Act.
26 (29) (a) "Mobility-enhancing equipment" means equipment, including repair and replacement parts, that:
27 (i) is primarily and customarily used to provide or increase the ability to move from one place to another
28 and that is appropriate for use either in a home or in a motor vehicle;
29 (ii) is not generally used by persons with normal mobility; and
30 (iii) does not include a motor vehicle or equipment on a motor vehicle normally provided by a motor

1 vehicle manufacturer.

2 (b) The term does not include durable medical equipment.

3 ~~(7)~~(30) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in
4 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a
5 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

6 (i) is rented for a period of not more than 30 days;

7 (ii) is rented without a driver, pilot, or operator; and

8 (iii) is designed to transport 15 or fewer passengers.

9 (b) ~~Motor vehicle~~ The term includes:

10 (i) a rental vehicle rented pursuant to a contract for insurance; and

11 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
12 without a driver, and that is used in the transportation of personal property.

13 (c) The term does not include farm vehicles, machinery, or equipment.

14 (31) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug,
15 as required by 21 CFR 201.66.

16 (b) An over-the-counter drug label includes:

17 (i) a drug facts panel; or

18 (ii) a statement of the active ingredients with a list of those ingredients contained in the compound,
19 substance, or preparation.

20 (c) The term does not include grooming and hygiene products.

21 ~~(8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.~~

22 ~~(9)~~(32) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
23 company, limited liability partnership, or any other legal entity.

24 (33) (a) "Prepared food" means:

25 (i) food sold in a heated state or heated by the seller;

26 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

27 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,
28 cups, napkins, or straws.

29 (b) The term does not include food that is only cut, repackaged, or pasteurized by the seller and eggs,
30 fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as

1 recommended by the United States food and drug administration in chapter 3, part 401.11, of its food code, so
2 as to prevent food-borne illnesses.

3 (34) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or
4 other means of transmission by a licensed practitioner as authorized by the laws of Montana.

5 (35) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and
6 replacement parts, worn on or in the body to:

7 (a) artificially replace a missing portion of the body;

8 (b) prevent or correct a physical deformity or malfunction; or

9 (c) support a weak or deformed portion of the body.

10 ~~(10)~~(36) "Purchaser" means a person to whom a sale of personal property is made or to whom a service
11 is furnished.

12 (37) "Recreation fees" means money paid for participating in or observing sporting, athletic, sightseeing,
13 or recreational activities.

14 ~~(11)~~(38) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
15 the motor vehicle through an arrangement and for consideration.

16 ~~(12)~~(39) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,
17 or subrent.

18 ~~(13)~~(40) "Sale" or "selling" means ~~the~~ any transfer, exchange, or barter, conditional or otherwise, of
19 property for consideration or the performance of a service for consideration.

20 ~~(14)~~(41) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or
21 consideration, including cash, credit, property, and services, for which personal property or services are sold,
22 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
23 following:

24 (i) the seller's cost of the property sold;

25 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
26 seller, all taxes imposed on the seller, and any other expense of the seller;

27 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
28 installation charges;

29 (iv) delivery charges;

30 (v) installation charges;

1 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
2 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

3 (vii) credit for any trade-in.

4 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (41)(a)(iii) through ~~(14)(a)(vii)~~
5 (41)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar
6 document given to the purchaser.

7 (c) The term does not include:

8 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
9 by a seller and taken by a purchaser on a sale;

10 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
11 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

12 or

13 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
14 sale, or similar document given to the purchaser.

15 (d) In an exchange in which the money or other consideration received does not represent the value of
16 the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

17 (e) When the sale of property or services is made under any type of charge or conditional or time-sales
18 contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,
19 excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

20 ~~(15)(42)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

21 ~~(16)(43)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.

22 ~~(17)(44)~~ (a) "Service" means an activity that is engaged in for another person for ~~consideration and that~~
23 is a fee, retainer, commission, or other monetary charge and that involves predominantly the performance of a
24 service as distinguished from the sale or lease of property. Service ~~The term~~ includes but is not limited to the
25 following activities, businesses, charges, fees, or services:

26 (i) abstracters;

27 (ii) accountants;

28 (iii) admission;

29 (iv) ancillary services;

30 (v) architects;

- 1 (vi) barbers;
2 (vii) beauty shops;
3 (viii) bill collection;
4 (ix) blacksmith shops;
5 (x) camp tuition;
6 (xi) car washing;
7 (xii) cleaning and pressing;
8 (xiii) dry cleaning;
9 (xiv) dyeing;
10 (xv) exterminators;
11 (xvi) garage and service stations;
12 (xvii) garment alteration;
13 (xviii) guided recreation and sightseeing;
14 (xix) insurance premiums;
15 (xx) janitorial services and supplies;
16 (xxi) laundry, linen, specialty cleaners, and towel supply;
17 (xxii) legal services;
18 (xxiii) medical care;
19 (xxiv) activities performed by a person for its members member or shareholders. shareholder services;
20 (xxv) membership or entrance fees for the use of a facility or for the right to purchase tangible personal
21 property;
22 (xxvi) photography, photo developing, and photo enlarging;
23 (xxvii) recreation fees;
24 (xxviii) refuse collection;
25 (xxix) rental or lease of sporting goods;
26 (xxx) sporting, athletic, or recreational activities;
27 (xxxi) telecommunications services;
28 (xxxii) tire recapping;
29 (xxxiii) utility services; and
30 (xxxiv) welding and all repair services.

1 (b) A service is taxable, even if it is provided by a government agency.

2 ~~(b)~~(c) In determining what a service is, the intended use, principal objective, or ultimate objective of the
3 contracting parties is irrelevant.

4 (d) The term does not include services rendered by an employee for an employer, or services exempt
5 from tax under this chapter.

6 (45) "Sightseeing" means engaging in a tour or trip for pleasure or culture.

7 (46) (a) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.

8 (b) The term does not include beverages that contain milk or milk products, soy, rice, or similar milk
9 substitutes, or greater than 50% of vegetable or fruit juice by volume.

10 (47) "Sporting, athletic, or recreational activities" means activities commonly performed for pleasure,
11 competition, or fitness purposes. The following list contains examples and is not an all-inclusive list:

12 (a) horseback riding;

13 (b) climbing, trekking, and mountaineering;

14 (c) biking;

15 (d) golfing;

16 (e) baseball, football, hockey, volleyball, tennis, basketball, and soccer;

17 (f) hunting and fishing;

18 (g) boating, canoeing, jet skiing, rafting, kayaking, and parasailing;

19 (h) camping and backpacking;

20 (i) swimming and diving;

21 (j) bowling and ice skating;

22 (k) skiing, snowmobiling, snow boarding, and snowshoeing;

23 (l) hang gliding and ballooning; and

24 (m) motorcycling, four-wheeling, and riding all-terrain vehicles.

25 (48) "Sporting goods" means items designed for human use and worn or used in conjunction with
26 sporting, athletic, or recreational activities.

27 (49) (a) "Tangible personal property" means personal property that can be seen, weighed, measured,
28 felt, or touched or that is in any other manner perceptible to the senses.

29 (b) The term includes but is not limited to clothing, computer software, crops, drugs, durable medical
30 equipment, electricity, fuel, gas, food and food ingredients, food sold through vending machines, grooming and

1 hygiene products, mobility-enhancing equipment, over-the-counter drugs, oxygen, prepared food, prescription
 2 drugs, prosthetic devices, sporting goods, therapeutic devices, timber, steam, and water.

3 (50) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains
 4 tobacco or nicotine.

5 ~~(18)~~(51) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use
 6 solely outside this state, in the ordinary course of business."

7

8 **Section 46.** Section 15-68-102, MCA, is amended to read:

9 **"15-68-102. Imposition and rate of sales tax and use tax -- exceptions.** (1) A sales tax of the
 10 following percentages is imposed on sales of the following property or services:

11 (a) 3% on accommodations and campgrounds;

12 (b) 4% on the base rental charge for rental vehicles;

13 (c) 4% on tangible personal property; and

14 (d) 4% on service.

15 (2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the
 16 department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be
 17 applied to the sales price.

18 (3) (a) For the privilege of using property or services within this state, there is imposed on the person
 19 using the following property or services a use tax equal to the following percentages of the value of the property
 20 or services:

21 (i) 3% on accommodations and campgrounds;

22 (ii) 4% on the base rental charge for rental vehicles;

23 (iii) 4% on tangible personal property; and

24 (iv) 4% on service.

25 (b) The use tax is imposed on property or services that were:

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

28 (ii) 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 the exterior boundaries of an
 30 Indian reservation within this state;

1 (iii) 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 (3)(a) but ~~which transaction;~~ that because of the buyer's
 3 subsequent use of the property; is subject to the sales tax or use tax; or

4 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that
 5 because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

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

8 (5) The sale or use of property or services exempt or nontaxable under this chapter is exempt from the
 9 tax imposed in subsections (1) and (3).

10 ~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and~~
 11 ~~(3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed~~
 12 ~~charge for accommodations or campgrounds.~~

13 (6) If permitted by the agreement, the department may adopt rules that allow a seller to incorporate the
 14 rate of tax imposed under subsection (1) in the final sales price."

15

16 **Section 47.** Section 15-68-110, MCA, is amended to read:

17 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**
 18 **severability.** (1) A Except when the purchaser has a direct payment permit as provided in [section 8], a person
 19 engaging in the business of selling property or services subject to taxation under this chapter shall collect the
 20 sales tax from the purchaser and pay the sales tax collected to the department.

21 (2) (a) A person who solicits or exploits the consumer market within this state by regularly and
 22 systematically performing an activity within this state and whose sales are not subject to the sales tax shall collect
 23 the use tax from the purchaser and pay the use tax collected to the department.

24 (b) For the purposes of this section, "activity" includes but is not limited to engaging in any of the
 25 following within this state:

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

28 (ii) canvassing;

29 (iii) demonstrating;

30 (iv) collecting money;

1 (v) warehousing or storing merchandise;

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

4 (vii) to the extent permitted by federal law, soliciting orders for property by means of the internet,
 5 telecommunications, or a television shopping system, or by providing telecommunications services that use toll
 6 or toll-free numbers and that are intended to be broadcast by cable television or other means to consumers within
 7 this state;

8 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this state, for
 9 property by means of advertising that is disseminated primarily to consumers located within this state and only
 10 secondarily to bordering jurisdictions;

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

13 (x) soliciting orders, pursuant to a contract with a cable television operator located within this state, for
 14 property by means of advertising transmitted or distributed over a cable television system within this state; or

15 (xi) participating in an act that benefits from banking, financing, debt collection, telecommunications, or
 16 marketing activities occurring within this state or that benefits from the location within this state of authorized
 17 installation, servicing, or repair facilities.

18 (3) Multistate registration pursuant to the agreement may not be used as a factor to determine whether
 19 the person is conducting an activity within the state subjecting the person to the sales tax or use tax.

20 ~~(2)~~(4) A person engaging in business within this state shall, before making any sales subject to this
 21 chapter, ~~obtain a seller's permit~~ register as a seller, as provided in 15-68-401, and at the time of making a sale,
 22 whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to
 23 the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

24 ~~(3)~~(5) The department may authorize the collection of the sales tax imposed by 15-68-102 by any retailer
 25 who does not maintain a place of business within this state but who, to the satisfaction of the department, is in
 26 compliance with the law. When authorized, the person shall collect the use tax upon all property and services
 27 that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

28 ~~(4)~~(6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any
 29 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and
 30 use tax.

1 ~~(5)(7)~~ A person engaging in business within this state that is subject to this chapter shall provide to the
2 department:

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

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

8

9 **Section 48.** Section 15-68-201, MCA, is amended to read:

10 **"15-68-201. Nontaxable transaction certificate -- requirements.** (1) A nontaxable transaction
11 certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a
12 nontaxable transaction occurs.

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

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

17 (4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes
18 in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the
19 properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is
20 nontaxable. If an incorrect claim was made with the intent to evade the payment of the sales tax, the purchaser
21 is subject to the penalty provided in 15-68-410. If an incorrect claim was made in error, the purchaser is subject
22 to payment of the sales tax or use tax."

23

24 **Section 49.** Section 15-68-202, MCA, is amended to read:

25 **"15-68-202. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform
26 nontaxable transaction certificate. An electronic or digitally usable version of a nontaxable transaction certificate
27 may also be provided. A purchaser shall use the certificate when purchasing goods or services for resale or for
28 ~~other~~ nontaxable transactions.

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

30 (a) ~~the~~ a unique identification number of the seller's permit issued to the purchaser as provided in

1 ~~15-68-401;~~

2 (b) ~~the general character of property or service sold by the purchaser in the regular course of business;~~
3 nature of the exemption, such as the fact that:

4 ~~(e)(i)~~ (i) the property or service is purchased for resale;

5 (ii) the property or service is purchased for manufacturing;

6 (iii) the purchaser is authorized to make direct payments; or

7 (iv) the purchaser is an entity exempt from payment of the sales tax;

8 ~~(d)(c)~~ (c) the name and address of the purchaser; and

9 ~~(e)(d)~~ (d) if it is a paper certificate, a signature line for the purchaser.

10 (3) The department shall adopt rules to provide procedures for application for and provision of a
11 certificate to a person engaging in business within this state ~~for renting accommodations and campgrounds prior~~
12 ~~to June 1, 2003, [the effective date of this act] and renting vehicles prior to July 1, 2003.~~ The rules adopted by
13 the department must ensure that each person that is engaging in business within this state ~~for renting~~
14 ~~accommodations and campgrounds prior to June 1, 2003, [the effective date of this act] and renting vehicles prior~~
15 ~~to July 1, 2003, that has applied in a timely fashion is issued a certificate for renting accommodations and~~
16 ~~campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the effective date of this act]."~~

17

18 **Section 50.** Section 15-68-207, MCA, is amended to read:

19 **"15-68-207. Exemption -- isolated or occasional sale or lease of property.** The isolated or occasional
20 sale or lease of property by a person that is not regularly engaged in or that does not claim to be engaged in the
21 business of selling or leasing the same or a similar property is exempt from the sales tax and use tax. Occasional
22 sales include sales that are occasional but not continuous and that are made for the purpose of fundraising by
23 nonprofit organizations, including but not limited to youth clubs, service clubs, and fraternal organizations."

24

25 **Section 51.** Section 15-68-401, MCA, is amended to read:

26 **"15-68-401. Seller's permit registration.** (1) A person that wishes to engage in business within this
27 state that is subject to this chapter shall obtain file with the department an application for a seller's permit
28 registration before engaging in business within this state.

29 (2) A person may apply for registration directly with the department or through the multistate central
30 registration system as provided in the agreement. Sellers registered through the multistate central registration

1 system agree to collect and remit sales taxes and use taxes for taxable Montana sales and to comply with audit
 2 and compliance provisions established through the agreement.

3 ~~(2)~~(3) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a
 4 separate, numbered seller's permit registration for each location in which the applicant maintains an office or other
 5 place of business within Montana. A permit registration is valid until revoked or suspended but is not assignable.
 6 A permit registration is valid only for the person in whose name it is issued and for the transaction of business
 7 at the place designated. The permit registration must be conspicuously displayed at all times at the place for
 8 which it is issued.

9 ~~(3)~~(4) The department shall adopt rules to provide procedures for application applying for a seller's
 10 registration and provision of a seller's permit to a person for registering sellers engaging in business within this
 11 state that is subject to this chapter for ~~renting accommodations and campgrounds prior to June 1, 2003, and~~
 12 ~~renting vehicles prior to July 1, 2003~~ [the effective date of this act]. The rules adopted by the department must
 13 ensure that each person engaging in business within this state for ~~renting accommodations and campgrounds~~
 14 ~~prior to June 1, 2003, and renting vehicles prior to July 1, 2003,~~ [the effective date of this act] has the opportunity
 15 to be registered is issued a seller's permit for ~~renting accommodations and campgrounds prior to June 1, 2003,~~
 16 ~~and renting vehicles prior to July 1, 2003~~ [the effective date of this act]. The department may adopt rules providing
 17 for seasonal permits registration."

18
 19 **Section 52.** Section 15-68-402, MCA, is amended to read:

20 **"15-68-402. ~~Permit application~~ Application for seller's registration -- requirements -- place of**
 21 **business -- form.** (1) (a) A person that wishes to engage in the business of making ~~retail~~ sales or providing
 22 services in Montana that are subject to this chapter shall file with the department an application for a permit
 23 seller's registration. If the person has more than one location in which the person maintains an office or other
 24 place of business, an application may include multiple locations.

25 (b) An applicant who does not maintain an office or other place of business and who moves from place
 26 to place is considered to have only one place of business and shall attach the permit seller's registration to the
 27 applicant's cart, stand, truck, or other merchandising device.

28 (c) A vending machine operator who has more than one vending machine location is considered to have
 29 only one place of business for the purposes of this section.

30 (2) Each person or class of persons required to file a return under this chapter, other than persons with

1 direct payment permits and certified service providers, is required to file an application for a permit seller's
 2 registration.

3 (3) ~~Each~~ An application for a permit seller's registration ~~must~~ may be ~~on a~~ in either electronic or paper
 4 form and must be prescribed by the department, and The application must meet the requirements of the multistate
 5 central registration system under the agreement even if the applicant intends to make local retail sales only in
 6 Montana. The form must set forth the name under which the applicant intends to transact business, the location
 7 of the applicant's place or places of business, and other information that the department may require. The
 8 application must be filed by the owner if the owner is a natural person or by a person authorized to sign the
 9 application if the owner is a corporation, partnership, limited liability company, or ~~some~~ other business entity."
 10

11 **Section 53.** Section 15-68-405, MCA, is amended to read:

12 **"15-68-405. Revocation or suspension of permit seller's registration -- appeal.** (1) Subject to the
 13 provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit
 14 registration held by a person that fails to comply with the provisions of this chapter.

15 (2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant
 16 to 15-1-211.

17 (3) If a permit seller's registration is revoked, the department may not issue a new permit registration
 18 except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the
 19 provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an
 20 amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new
 21 permit registration to the applicant.

22 (4) A person aggrieved by the department's final decision to revoke a permit seller's registration, as
 23 provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date
 24 on which the department issued its final decision."
 25

26 **Section 54.** Section 15-68-501, MCA, is amended to read:

27 **"15-68-501. Liability for payment of tax -- security for retailer without place of business -- penalty.**

28 (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the
 29 department.

30 (2) A retailer that does not maintain an office or other place of business within this state is liable for the

1 sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as provided
 2 in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise provided
 3 in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this state in the
 4 same manner as a retailer who maintains an office or other place of business within this state. The seller's ~~permit~~
 5 registration provided for in 15-68-401 may be canceled at any time if the department considers the security
 6 inadequate or believes that the taxes can be collected more effectively in another manner.

7 (3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit
 8 orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses
 9 a seller's ~~permit~~ registration issued by the department. If an agent, canvasser, or employee violates the provisions
 10 of this chapter, the person is subject to a fine of not more than \$100 for each separate transaction or event."
 11

12 **Section 55.** Section 15-68-502, MCA, is amended to read:

13 **"15-68-502. Returns -- payment -- authority of department.** (1) ~~Except as provided in subsection (2),~~
 14 ~~on or before the last day of the month following the calendar quarter in which the transaction subject to the tax~~
 15 ~~imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the~~
 16 ~~preceding quarter must be filed with the department.~~ Each person engaged in business within this state or using
 17 property or services within this state that are subject to tax under this chapter shall file a return. ~~A person making~~
 18 ~~retail sales at two or more places of business shall file a separate return for each separate place of business.~~
 19 Sellers that are registered under the agreement and that use either a certified automated system or a certified
 20 service provider, as defined in the agreement, are subject to the reporting and payment provisions of subsection
 21 (2). A person that has been issued a seasonal seller's registration shall file a return and pay the tax on the date
 22 or dates set by the department. All other sellers are subject to the reporting and payment provisions provided in
 23 subsection (3).

24 (2) (a) On or before the 20th day of each month, a return, in a form adopted by the department in
 25 conformance with the agreement, with a remittance of the tax owed for the preceding month, must be filed with
 26 the department. The filing and the remittance may be done electronically.

27 (b) The seller and any agent of the seller, for the purposes of reporting or paying the sales tax or use
 28 tax, are subject to the audit and accountability provisions of the agreement.

29 ~~(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the~~
 30 ~~date or dates set by the department.~~

- 1 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:
- 2 (i) a ~~retailer~~ seller required to collect the tax; and
- 3 (ii) a purchaser with a direct payment permit; and
- 4 ~~(ii)(iii)~~ (iii) a person that:
- 5 (A) purchases any items ~~the~~ for which the items' storage, use, nonexempt sales to purchasers in the
- 6 ordinary course of business, or other consumption ~~of which~~ is subject to the sales tax or use tax; and
- 7 (B) has not paid the tax to a ~~retailer~~ seller required to pay the tax.
- 8 (b) A return must be filed with and payment must be received by the department on or before the 20th
- 9 day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability
- 10 that averages less than \$100 a month may report and pay the tax quarterly and shall file the return with payment
- 11 received by the department before the 20th day of the month after the end of each quarter.
- 12 ~~(b)(c)~~ (c) Each return must be authenticated by the person filing the return or by the person's agent
- 13 authorized in writing to file the return.
- 14 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
- 15 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
- 16 prescribed by the department. Each return or statement must include the information required by the rules of the
- 17 department. The department shall comply with the provisions of the agreement in determining reports and records
- 18 management requirements in reference to sellers that are registered under the agreement.
- 19 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
- 20 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
- 21 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
- 22 of or in the possession of the person filing the return or another person. In determining compliance, the
- 23 department may use statistical sampling and other sampling techniques consistent with generally accepted
- 24 auditing standards. The department may also:
- 25 (i) require the attendance of a person having knowledge or information relevant to a return;
- 26 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
- 27 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or
- 28 may be jeopardized because of delay;
- 29 (iv) take testimony on matters material to the determination; and
- 30 (v) administer oaths or affirmations.

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

3

4 **Section 56.** Section 15-68-505, MCA, is amended to read:

5 **"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected.** (1)

6 Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually
7 deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment
8 of the tax.

9 (2) Bad debts may be deducted within 12 months after the month in which the bad debt has been
10 charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging
11 off of unpaid balances due on accounts as uncollectible or declaring as uncollectible such unpaid balance due
12 on accounts in the case of a seller who is not required to file federal income tax returns.

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

14 (4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable
15 sales within a 12-month period defined by that bad debt.

16 (5) For purposes of computing a bad debt deduction or reporting a payment received on a previously
17 claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any
18 other charges and second to the price of the property or service and sales tax on the property or service,
19 proportionally.

20 (6) If filing responsibilities have been assumed by a certified service provider, the certified service
21 provider may claim any bad debt allowance on behalf of the seller.

22 (7) If the books and records of the seller claiming the bad debt allowance support an allocation of the
23 bad debts among several states, the bad debts may be allocated among those states."

24

25 **Section 57.** Section 15-68-510, MCA, is amended to read:

26 **"15-68-510. Vendor allowance.** (1) (a) A person filing a timely return under 15-68-502 may claim a
27 ~~quarterly~~ vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable
28 to the state, not to exceed ~~\$1,000 a quarter~~ \$350 a month for a person filing on a monthly basis.

29 ~~(2)(b)~~ (b) The allowance may be deducted on the return.

30 ~~(3)(c)~~ (c) A person that files a return or payment after the due date for the return or payment may not claim

1 a vendor allowance.

2 (2) In lieu of the vendor allowance provided for in subsection (1), certified service providers must receive
 3 a monetary allowance determined as provided in the agreement and the sellers using the certified service
 4 providers may not receive a vendor allowance. The vendor allowance must be funded entirely from sales tax
 5 proceeds collected by the sellers using the certified service providers.

6 (3) In addition to the vendor allowance provided for in subsection (1), a registered seller using a certified
 7 automated system must receive a percentage of the tax determined to be payable to the state. The percentage
 8 must be determined as provided in the agreement."

9

10 **Section 58.** Section 15-68-520, MCA, is amended to read:

11 **"15-68-520. Limitations.** (1) Except in the case of a person that purposely or knowingly, as those terms
 12 are defined in 45-2-101, files a false or fraudulent return violating the provisions of this chapter, a deficiency may
 13 not be assessed or collected with respect to a ~~quarter~~ month for which a return is filed unless the notice of
 14 additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from
 15 the date that the return was filed. For purposes of this section, a return filed before the last day prescribed for
 16 filing is considered to be filed on the last day.

17 (2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax,
 18 the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be
 19 assessed at any time prior to the expiration of the period to which consent was given."

20

21 **Section 59.** Section 15-68-801, MCA, is amended to read:

22 **"15-68-801. Administration -- rules.** The department shall:

23 (1) (a) administer and enforce the provisions of this chapter;

24 ~~(2)(b)~~ cause to be prepared and distributed forms and information that may be necessary to administer
 25 the provisions of this chapter; and

26 ~~(3)(c)~~ adopt rules that may be necessary or appropriate to administer and enforce the provisions of this
 27 chapter.

28 (2) In administering the provisions of this chapter, the department shall, when applicable and not in
 29 conflict with Montana law, follow the provisions of the agreement adopted pursuant to [sections 1 through 7]. The
 30 department shall report to the revenue and transportation interim committee provided for in 5-5-227 on:

1 (a) the operation of the agreement and the benefits and costs to the state of the state's participation; and
 2 (b) any changes to the agreement that require changes in Montana law for compliance with the
 3 agreement."

4
 5 **Section 60.** Section 15-68-815, MCA, is amended to read:

6 **"15-68-815. Information -- confidentiality -- agreements with another state.** (1) (a) Except as
 7 provided in subsections (2) through (4), it is unlawful for an employee of the department or any other public official
 8 or public employee to divulge or otherwise make known information that is disclosed in a report or return required
 9 to be filed under this chapter or information that concerns the affairs of the person making the return and that is
 10 acquired from the person's records, officers, or employees in an examination or audit.

11 (b) This section may not be construed to prohibit the department from publishing statistics if they are
 12 classified in a way that does not disclose the identity and content of any particular report or return. A person
 13 violating the provisions of this section is subject to ~~the penalty provided in 15-30-2618 or 15-31-511 for violating~~
 14 ~~the confidentiality of individual income tax or corporate income tax information~~ a fine not exceeding \$500. If the
 15 offender is an officer or employee of the state, the offender must be dismissed from office or employment and
 16 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the
 17 case of a former officer or employee, for 1 year after conviction.

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

21 (b) In order to implement the provisions of this chapter, the department may furnish information on a
 22 reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within
 23 the state receiving the information that are similar to this section.

24 (3) In order to facilitate processing of returns and payment of taxes required by this chapter, the
 25 department may contract with vendors and may disclose data to the vendors. The data disclosed must be
 26 administered by the vendor in a manner consistent with this section.

27 (4) This section may not be construed to limit the investigative authority of the legislative branch, as
 28 provided in 5-11-106, 5-12-303, or 5-13-309."

29
 30 **Section 61.** Section 17-5-1102, MCA, is amended to read:

- 1 **"17-5-1102. Definitions.** As used in this part, the following definitions apply:
- 2 (1) (a) "Authorized officer" means, with respect to any certificated public obligation:
- 3 (i) an individual whose signature to the certificated public obligation is required or permitted; or
- 4 (ii) an individual who may be permitted by an authorized officer, either alone or with the concurrence of
- 5 another or others, to affix the individual's signature to the certificated public obligation and who is so permitted
- 6 in writing by the authorized officer with any required concurrence.
- 7 (b) "Authorized officer" means, with respect to any uncertificated public obligation, any individual referred
- 8 to in this subsection (1) as an authorized officer with respect to a certificated public obligation of the same class
- 9 or series.
- 10 (2) "Certificated public obligation" means an obligation that is:
- 11 (a) issued pursuant to a system of registration;
- 12 (b) represented by an instrument; and
- 13 (c) either one of a class or series or by its terms is divisible into a class or series of obligations.
- 14 (3) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the
- 15 seal of the issuer, official, or official body.
- 16 (4) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means
- 17 of the manual signature of an authorized officer.
- 18 (5) "Financial intermediary" means a bank, broker, clearing corporation, or trust company or the nominee
- 19 of any of them or other person or nominee that in the ordinary course of its business maintains public obligation
- 20 accounts for its customers.
- 21 (6) "Internal Revenue Code" has the meaning provided in ~~45-30-2101~~ 15-1-101.
- 22 (7) "Issuer" means a public entity that:
- 23 (a) executes a certificated public obligation to evidence its duty to perform an obligation represented by
- 24 the certificated public obligation;
- 25 (b) undertakes to perform an obligation that is an uncertificated public obligation; or
- 26 (c) becomes responsible for or in place of a public entity described as an issuer in this subsection (7).
- 27 (8) "Obligation" means an agreement of an issuer to pay principal and interest and includes a share,
- 28 participation, or other interest in the agreement.
- 29 (9) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other
- 30 authorized means by which the issuer provides for issuance of a public obligation.

1 (10) "Official or official body" means:

2 (a) the officer or body that is empowered under the laws of one or more states, including this state, to
3 provide for original issuance of a public obligation of the issuer by defining the obligation and its terms, conditions,
4 and other incidents;

5 (b) the successor or successors of the official or official body; and

6 (c) any other person or group of persons who are assigned duties of the official or official body under
7 applicable law.

8 (11) "Original issuance" means the first transfer of a public obligation by an issuer to a purchaser.

9 (12) "Public entity" means any entity, department, or agency that is empowered under the laws of one
10 or more states, including this state, to issue obligations, any interest with respect to which may under any
11 provision of law be provided an exemption from the income tax referred to in the Internal Revenue Code. The
12 term may include this state, a political subdivision, a municipal corporation, a state university or college, a school
13 district or other special district, a joint agreement entity, a public authority, a public trust, a nonprofit corporation,
14 or any other organization.

15 (13) "Public obligation" means either a certificated or an uncertificated public obligation.

16 (14) "System of registration" and its variants means a plan:

17 (a) with respect to a certificated public obligation, that provides that:

18 (i) the certificated public obligation specify a person entitled to the public obligation or the rights it
19 represents; and

20 (ii) transfer of the certificated public obligation may be registered upon books maintained for that purpose
21 by or on behalf of the issuer; and

22 (b) with respect to an uncertificated public obligation, that provides that transfer of the uncertificated
23 public obligation be registered upon books maintained for that purpose by or on behalf of the issuer.

24 (15) "Uncertificated public obligation" means an obligation that is:

25 (a) issued pursuant to a system of registration;

26 (b) not represented by an instrument; and

27 (c) either one of a class or series or by its terms divisible into a class or series of obligations."
28

29 **Section 62.** Section 17-6-311, MCA, is amended to read:

30 **"17-6-311. Limitation on size of investments.** (1) Except as provided in subsection (2) and this

1 subsection, an investment may not be made that will result in any one business enterprise or person receiving
 2 a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of
 3 which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business enterprise
 4 or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the debt incurred
 5 for the project or enterprise for the coal tax investment that was made to the business enterprise or person must
 6 be held by a commercial lender. This subsection does not:

7 (a) apply to a loan made pursuant to 17-6-317;

8 (b) limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2).

9 (2) The total amount of loans made pursuant to 17-6-309(2) may not exceed \$80 million, the total amount
 10 of loans made pursuant to 17-6-317 may not exceed \$70 million, and a single loan may not be less than
 11 \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that is
 12 estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

13 (a) the estimated number of jobs to be created by the project within a 4-year period from the time that
 14 the loan is made and the impact of the jobs on the state and the community where the project will be located;

15 ~~(b) the long-term effect of corporate and personal income taxes estimated to be paid by the business
 16 and its employees;~~

17 ~~(e)(b)~~ the current and projected ability of the community to provide necessary infrastructure for economic
 18 and community development purposes;

19 ~~(d)(c)~~ the amount of increased salaries, wages, and business incomes of existing jobholders and
 20 businesses; and

21 ~~(e)(d)~~ other matters that the board considers necessary."
 22

23 **Section 63.** Section 17-6-316, MCA, is amended to read:

24 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to
 25 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer
 26 systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of
 27 a business in Montana. The loan must be made to a local government that will create the necessary
 28 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan
 29 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of
 30 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made

1 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate
2 reduction passes through to the business creating the jobs.

3 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the
4 condition in 17-6-309(2) will be met. ~~If the condition contained in 17-6-309(2) is not met, any credits received~~
5 ~~pursuant to subsection (3) of this section must be returned to the state.~~

6 ~~(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and~~
7 ~~subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the~~
8 ~~portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not~~
9 ~~exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."~~

10

11 **Section 64.** Section 17-6-602, MCA, is amended to read:

12 **"17-6-602. Definitions.** As used in this part, the following definitions apply:

13 (1) "Benefits, services, or coverage of health care needs" means the provision of health care to persons
14 by the state through any program of benefits, services, or coverage, including ~~income~~ tax incentives.

15 (2) "Health care" has the meaning provided in 50-16-504.

16 (3) (a) "Programs for tobacco disease prevention" means programs of services administered by the state
17 for the purposes of informing individuals of the health risks of tobacco use and exposure to secondhand tobacco
18 smoke, assisting persons in the avoidance of tobacco products use, and assisting individuals in cessation of
19 tobacco use.

20 (b) Programs for tobacco disease prevention include:

21 (i) community-based education programs;

22 (ii) American Indian community tobacco education programs;

23 (iii) general public awareness and education programs;

24 (iv) tobacco cessation services;

25 (v) chronic disease programs;

26 (vi) a tobacco use resource center;

27 (vii) special education and cessation programs to reach youth and women of childbearing age;

28 (viii) smokeless tobacco user programs; and

29 (ix) advertising issue programs.

30 (4) "Tobacco products" means a substance intended for human use that contains tobacco and includes

1 but is not limited to cigarettes, cigars, smoking tobacco, and tobacco intended for use in an oral or nasal cavity.

2 (5) "Trust fund" means the Montana tobacco settlement trust fund authorized by Article XII, section 4,
3 of the Montana constitution and implemented through this part."

4

5 **Section 65.** Section 17-7-111, MCA, is amended to read:

6 **"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and**

7 **contents.** (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state
8 need information that is consistent and accurate. Necessary information includes detailed disbursements by fund
9 type for each agency and program for the appropriate time period, recommendations for creating a balanced
10 budget, and recommended disbursements and estimated receipts by fund type and fund category.

11 (b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall
12 by agreement:

13 (i) establish necessary standards, formats, and other matters necessary to share information between
14 the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget;
15 and

16 (ii) provide for the collection and provision of budgetary and financial information that is in addition to or
17 different from the information otherwise required to be provided pursuant to this section.

18 (2) In the preparation of a state budget, the budget director shall, not later than the date specified in
19 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget
20 estimates by the budget director. These forms must be prescribed by the budget director to procure the
21 information required by subsection (3). The forms must be submitted to the budget director by the date provided
22 in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5).
23 The budget director may refuse to accept forms that do not comply with the provisions of this section or the
24 instructions given for completing the forms.

25 (3) Subject to subsections ~~(7)~~ (6) and ~~(8)~~ (7), the agency budget request must set forth a balanced
26 financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must
27 consist of:

28 (a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101,
29 for the current base budget expenditures, including statutory appropriations, and for each present law adjustment
30 and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE)

1 and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts,
2 together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted
3 with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

4 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the
5 current biennium and estimated for the subsequent biennium;

6 (c) a statement of the agency mission and a statement of goals and objectives for each program of the
7 agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable
8 information to enable the legislature to formulate an appropriations policy regarding the agency and its programs
9 and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals
10 and objectives.

11 (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE
12 and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

13 (e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements
14 for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement
15 category;

16 (f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general
17 appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the
18 budget director. Each agency plan must include base budget reductions that reflect the required percentage
19 reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations
20 of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff
21 under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund
22 balances to the general fund. The plan must include:

23 (i) a prioritized list of services that would be eliminated or reduced;

24 (ii) for each service included in the prioritized list, the savings that would result from the elimination or
25 reduction; and

26 (iii) the consequences or impacts of the proposed elimination or reduction of each service.

27 (g) a reference for each new information technology proposal stating whether the new proposal is
28 included in the approved agency information technology plan as required in 2-17-523;

29 (h) energy cost saving information as required by 90-4-616; and

30 (i) other information the budget director feels is necessary for the preparation of a budget.

1 (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with
2 17-7-112:

3 (a) detailed recommendations for the state long-range building program. Each recommendation must
4 be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

5 (b) a statewide project budget summary as provided in 2-17-526;

6 (c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with
7 the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this
8 subsection is not an unfair labor practice under 39-31-401.

9 (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part
10 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and
11 development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under
12 Title 90, chapter 6, part 7.

13 (5) The board of regents shall submit, with its budget request for each university unit in accordance with
14 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this
15 subsection (5). The report must include the following information for each year of the biennium, contrasted with
16 the same information for the last-completed fiscal year and the fiscal year in progress:

17 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

18 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding
19 bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding
20 requirements for each bond indenture; and

21 (c) a schedule showing the total funds available from each bond indenture and its associated accounts,
22 with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project
23 for each year of the current and ensuing bienniums.

24 ~~————(6) (a) The department of revenue shall make Montana individual income tax information available by~~
25 ~~removing names, addresses, and social security numbers and substituting in their place a state accounting record~~
26 ~~identifier number. Except for the purposes of complying with federal law, the department may not alter the data~~
27 ~~in any other way.~~

28 ~~————(b) The department of revenue shall provide the name and address of a taxpayer on written request of~~
29 ~~the budget director when the values on the requested return, including estimated payments, are considered~~
30 ~~necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially~~

1 ~~affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or~~
 2 ~~payments on the analysis being performed.~~

3 ~~(7)(6)~~ (a) The department of public health and human services' budget request for the 2013 biennium
 4 must identify changes necessary to reduce the 2013 biennium expenditures to the level funded in the general
 5 appropriations act. The department may include changes such as reducing administrative costs, developing more
 6 cost-efficient methods to deliver services, limiting the number of medicaid services that adults may receive,
 7 changing medicaid services included in the Montana medicaid state plan, changing eligibility or level-of-care
 8 requirements for medicaid waiver services, limiting or changing services that are fully state-funded, or
 9 implementing other initiatives that reduce state funds. Achieving the necessary general fund reduction in the 2013
 10 biennium budget request may not include shifting costs to state special revenue funds.

11 (b) The department of public health and human services shall prepare a work plan with goals,
 12 milestones, and measures to guide its review of alternatives to identify, evaluate, and select initiatives to reduce
 13 ongoing state spending in its 2013 biennium budget submission. The department shall submit the work plan,
 14 goals, milestones, and measures to the legislative finance committee at its first meeting after the adjournment
 15 of the 2009 legislative session for its review and comment. The department shall provide an update of its budget
 16 reduction for review and comment at each legislative finance committee meeting in a format developed with and
 17 agreed upon by the committee.

18 ~~(8)(7)~~ Each agency budget request for the 2013 biennium must include the adjustments to present law
 19 base specified in 17-7-102(10)(b)."

20

21 **Section 66.** Section 17-7-502, MCA, is amended to read:

22 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 23 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 24 need for a biennial legislative appropriation or budget amendment.

25 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 26 of the following provisions:

27 (a) The law containing the statutory authority must be listed in subsection (3).

28 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 29 appropriation is made as provided in this section.

30 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;

1 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
 2 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;
 3 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;
 4 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 5 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; ~~20-9-905~~; 20-26-617;
 6 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301;
 7 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
 8 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
 9 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
 10 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115;
 11 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

12 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 13 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 14 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 15 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 16 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 17 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 18 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
 19 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
 20 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
 21 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
 22 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
 23 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004
 24 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
 25 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
 26 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;
 27 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
 28 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
 29 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
 30 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of

1 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
 2 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 3 terminates June 30, 2025; and pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
 4 September 30, 2019; ~~and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December~~
 5 ~~31, 2023.)"~~

6

7 **Section 67.** Section 19-2-303, MCA, is amended to read:

8 **"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems
 9 subject to this chapter, the following definitions apply:

10 (1) "Accumulated contributions" means the sum of all the regular and any additional contributions made
 11 by a member in a defined benefit plan, together with the regular interest on the contributions.

12 (2) "Active member" means a member who is a paid employee of an employer, is making the required
 13 contributions, and is properly reported to the board for the most current reporting period.

14 (3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory
 15 manner to represent the present value of the benefits to be derived from the additional service to be credited
 16 based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary
 17 of the member.

18 (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality
 19 table and interest rate assumptions adopted by the board.

20 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined
 21 benefit retirement plan over the present value of future normal costs in that retirement plan.

22 (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

23 (7) "Additional contributions" means contributions made by a member of a defined benefit plan to
 24 purchase various types of optional service credit as allowed by the applicable retirement plan.

25 (8) "Annuity" means:

26 (a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent
 27 of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are
 28 not subject to periodic or one-time increases; or

29 (b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

30 (9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee

1 may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

2 (10) "Benefit" means:

3 (a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit
4 payment provided by a defined benefit retirement plan; or

5 (b) a payment or distribution under the defined contribution retirement plan, including a disability payment
6 under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased
7 under 19-3-2124.

8 (11) "Board" means the public employees' retirement board provided for in 2-15-1009.

9 (12) "Contingent annuitant" means:

10 (a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing
11 monthly benefit after the death of a retired member; or

12 (b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust
13 that may receive a continuing monthly benefit after the death of a retired member.

14 (13) "Covered employment" means employment in a covered position.

15 (14) "Covered position" means a position in which the employee must be a member of the retirement
16 system except as otherwise provided by law.

17 (15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement
18 systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

19 (16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public
20 employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and
21 that is not a defined benefit plan.

22 (17) "Department" means the department of administration.

23 (18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit
24 of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum
25 payments, or benefit from a retirement account upon the death of the member or payment recipient, including
26 annuities derived from the benefits or payments.

27 (19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by
28 the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

29 (20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by
30 reason of physical or mental incapacity. The disability must be incurred while the member is an active member

1 and must be one of permanent duration or of extended and uncertain duration, as determined by the board on
2 the basis of competent medical opinion.

3 (21) "Distributee" means:

4 (a) a member;

5 (b) a member's surviving spouse;

6 (c) a member's spouse or former spouse who is the alternate payee under a family law order as defined
7 in 19-2-907; or

8 (d) ~~effective January 1, 2007~~, a member's nonspouse beneficiary who is a designated beneficiary as
9 defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

10 (22) "Early retirement benefit" means the retirement benefit payable to a member following early
11 retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

12 (23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover
13 distribution:

14 (a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C.
15 408(a);

16 (b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C.
17 408(b);

18 (c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

19 (d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

20 (e) ~~effective January 1, 2002~~, an annuity contract described in section 403(b) of the Internal Revenue
21 Code, 26 U.S.C. 403(b);

22 (f) ~~effective January 1, 2002~~, a plan eligible under section 457(b) of the Internal Revenue Code, 26
23 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of
24 a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan
25 from a plan under this title; or

26 (g) ~~effective January 1, 2008~~, a Roth IRA described in section 408A of the Internal Revenue Code, 26
27 U.S.C. 408A.

28 (24) "Eligible rollover distribution":

29 (a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the
30 distributee, as provided in 19-2-1011;

1 (b) ~~effective January 1, 2002~~, includes a distribution to a surviving spouse or to a spouse or former
2 spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal
3 Revenue Code, 26 U.S.C. 414(p).

4 (25) "Employee" means a person who is employed by an employer in any capacity and whose salary is
5 being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying
6 retirement contributions pursuant to 7-11-105.

7 (26) "Employer" means a governmental agency participating in a retirement system enumerated in
8 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
9 responsible for paying retirement contributions pursuant to 7-11-105.

10 (27) "Essential elements of the position" means fundamental job duties. An element may be considered
11 essential because of but not limited to the following factors:

12 (a) the position exists to perform the element;

13 (b) there are a limited number of employees to perform the element; or

14 (c) the element is highly specialized.

15 (28) "Excess earnings" means the difference, if any, between reported compensation and the limits
16 provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average
17 compensation.

18 (29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following
19 June 30.

20 (30) "Inactive member" means a member who terminates service and does not retire or take a refund of
21 the member's accumulated contributions.

22 (31) "Internal Revenue Code" has the meaning provided in ~~45-30-2104~~ 15-1-101.

23 (32) "Member" means either:

24 (a) a person with accumulated contributions and service credited with a defined benefit retirement plan
25 or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

26 (b) a person with a retirement account in the defined contribution plan.

27 (33) "Membership service" means the periods of service that are used to determine eligibility for
28 retirement or other benefits.

29 (34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
30 method required to fund accruing benefits for members of a defined benefit retirement plan during any year in

1 the future.

2 (b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

3 (35) "Normal retirement age" means the age at which a member is eligible to immediately receive a
4 retirement benefit based on the member's age or both age and length of service, as specified under the member's
5 retirement system, without disability and without an actuarial or similar reduction in the benefit.

6 (36) "Pension" means benefit payments for life derived from contributions to a retirement plan made from
7 state- or employer-controlled funds.

8 (37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a
9 retirement system or plan in public trust.

10 (38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered
11 by the defined contribution plan members that is allocated to the public employees' retirement system's defined
12 benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate changes
13 in a defined benefit plan resulting from member selection of the defined contribution plan.

14 (39) "Regular contributions" means contributions required from members under a retirement plan.

15 (40) "Regular interest" means interest at rates set from time to time by the board.

16 (41) "Retirement" or "retired" means the status of a member who has:

17 (a) terminated from service; and

18 (b) received and accepted a retirement benefit from a retirement plan.

19 (42) "Retirement account" means an individual account within the defined contribution retirement plan
20 for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of
21 the defined contribution plan or the member's beneficiary.

22 (43) "Retirement benefit" means:

23 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,
24 early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a
25 defined benefit plan, the term does not mean an annuity.

26 (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

27 (44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under
28 one of the public employee retirement systems enumerated in 19-2-302.

29 (45) "Retirement system" or "system" means one of the public employee retirement systems enumerated
30 in 19-2-302.

1 (46) "Service" means employment of an employee in a position covered by a retirement system.

2 (47) "Service credit" means the periods of time for which the required contributions have been made to
3 a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined
4 benefit retirement plan.

5 (48) "Service retirement benefit" means the retirement benefit that the member may receive at normal
6 retirement age.

7 (49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of
8 the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily
9 designated to receive benefits upon the death of the member.

10 (50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan
11 arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date
12 of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise
13 recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded
14 actuarial liabilities of the retirement plan.

15 (51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a
16 deceased member who died while in service under a defined benefit retirement plan.

17 (52) "Termination of employment", "termination from employment", "terminated employment", "terminated
18 from employment", "terminate employment", or "terminates employment" means that:

19 (a) there has been a complete severance of a covered employment relationship by the positive act of
20 either the employee, the employer, or both; and

21 (b) the member is no longer receiving compensation for covered employment, other than any outstanding
22 lump-sum payment for compensatory leave, sick leave, or annual leave.

23 (53) "Termination of service", "termination from service", "terminated from service", "terminated service",
24 "terminating service", or "terminates service" means that:

25 (a) there has been a complete severance of a covered employment relationship by the positive act of
26 either the employee, the employer, or both for at least 30 days;

27 (b) no written or verbal agreement exists between employee and employer that the employee will return
28 to covered employment in the future;

29 (c) the member is no longer receiving compensation for covered employment; and

30 (d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to

1 which the member was entitled. For the purposes of this subsection (53), compensation does not mean
2 compensation as a result of a legal action, court order, or settlement to which the board was not a party.

3 (54) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit
4 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that
5 same date.

6 (55) "Vested account" means an individual account within a defined contribution plan that is for the
7 exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the
8 income on all contributions in each of the following accounts:

9 (a) the member's contribution account;

10 (b) the vested portion of the employer's contribution account; and

11 (c) the member's account for other contributions.

12 (56) "Vested member" or "vested" means:

13 (a) with respect to a defined benefit plan, except as provided in subsection (56)(b), a member or the
14 status of a member who has at least 5 years of membership service;

15 (b) with respect to a member of the highway patrol officers' retirement system established in Title 19,
16 chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10 years
17 of membership service; or

18 (c) with respect to the defined contribution plan, a member or the status of a member who meets the
19 minimum membership service requirement of 19-3-2116.

20 (57) "Written application" or "written election" means a written instrument, prescribed by the board or
21 required by law, properly signed and filed with the board, that contains all required information, including
22 documentation that the board considers necessary.

23 (58) "Written instrument" includes an electronic record containing an electronic signature, as defined in
24 30-18-102."

25

26 **Section 68.** Section 19-2-1004, MCA, is amended to read:

27 **"19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909,
28 the right of a person to any benefit or payment from a retirement system or plan and the money in the system or
29 plan's pension trust fund is not:

30 (1) subject to execution, garnishment, attachment, or any other process;

- 1 (2) subject to state, county, or municipal taxes except for:
 2 ~~—— (a) a benefit or annuity received in excess of the amount determined pursuant to 15-30-2110(2)(c); or~~
 3 ~~—— (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as~~
 4 provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or
 5 (3) assignable except as specifically provided in this chapter."
 6

7 **Section 69.** Section 19-17-407, MCA, is amended to read:

8 **"19-17-407. Exemption from taxation and legal process.** (1) ~~The amount determined pursuant to~~
 9 ~~15-30-2110(2)(c) of benefits~~ Benefits received under this part ~~is~~ are exempt from state, county, and municipal
 10 taxation.

11 (2) Benefits received under this part are not subject to execution, garnishment, attachment, or any other
 12 process."
 13

14 **Section 70.** Section 19-18-612, MCA, is amended to read:

15 **"19-18-612. Protection of benefits from legal process and taxation -- nonassignability.** (1) Except
 16 for execution or withholding for the payment of child support or for the payment of spousal support for a spouse
 17 or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are
 18 not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not
 19 assign the right, and the association and trustees may not recognize any assignment or pay over any sum
 20 assigned.

21 (2) ~~The amount determined pursuant to 15-30-2110(2)(c) of benefits~~ Benefits received under this part
 22 ~~is~~ are exempt from state, county, and municipal taxation."
 23

24 **Section 71.** Section 19-19-504, MCA, is amended to read:

25 **"19-19-504. Protection of benefits from legal process and taxation.** (1) Except for execution or
 26 withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse
 27 who is the custodial parent of the child, the benefits provided for in this part are not subject to execution,
 28 garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are
 29 unassignable except as specifically provided in 19-19-505.

30 (2) ~~The amount determined pursuant to 15-30-2110(2)(c) of benefits~~ Benefits received under this part

1 is are exempt from state, county, and municipal taxation."

2

3 **Section 72.** Section 19-20-101, MCA, is amended to read:

4 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the
5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of
7 a member or paid by a member and credited to the member's individual account in the annuity savings account,
8 together with interest. Regular interest must be computed and allowed to provide a benefit at the time of
9 retirement.

10 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality
11 table and interest rate assumption set by the retirement board.

12 (3) "Average final compensation" means a member's highest average earned compensation, determined
13 pursuant to 19-20-805, on which all required contributions have been made.

14 (4) "Beneficiary" means one or more persons formally designated by a member or retiree to receive a
15 retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

16 (5) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a
17 retirement allowance.

18 (6) "Creditable service" is that service defined by 19-20-401.

19 (7) "Date of termination" or "termination date" means the last date on which a member performed service
20 in a position reportable to the retirement system.

21 (8) (a) "Earned compensation" means, except as limited by subsections (8)(b) and (8)(c) or by
22 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any
23 pretax deductions allowed under the Internal Revenue Code are deducted.

24 (b) Earned compensation does not include:

25 (i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life,
26 vision, dental, or any other insurance;

27 (ii) any direct employer payment or reimbursement for:

28 (A) professional membership dues;

29 (B) maintenance;

30 (C) housing;

- 1 (D) day care;
- 2 (E) automobile, travel, lodging, or entertaining expenses; or
- 3 (F) any similar form of maintenance, allowance, or expenses;
- 4 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;
- 5 (iv) any noncash benefit provided by an employer to or on behalf of a member;
- 6 (v) termination pay unless included pursuant to 19-20-716;
- 7 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)
- 8 of the Internal Revenue Code, 26 U.S.C. 457(f);
- 9 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
- 10 employment or accrued in excess of that normally allowed;
- 11 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or
- 12 (ix) any similar payment or reimbursement made to or on behalf of a member by an employer.
- 13 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same
- 14 or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.
- 15 (9) "Employer" means:
- 16 (a) the state of Montana;
- 17 (b) a public school district, as provided in 20-6-101 and 20-6-701;
- 18 (c) the office of public instruction;
- 19 (d) the board of public education;
- 20 (e) an education cooperative;
- 21 (f) the Montana school for the deaf and blind, as described in 20-8-101;
- 22 (g) the Montana youth challenge program, as defined in 10-1-101;
- 23 (h) a state youth correctional facility, as defined in 41-5-103;
- 24 (i) the Montana university system;
- 25 (j) a community college; or
- 26 (k) any other agency, political subdivision, or instrumentality of the state that employs a person who is
- 27 designated a member of the retirement system pursuant to 19-20-302.
- 28 (10) "Full-time service" means service that is:
- 29 (a) at least 180 days in a fiscal year;
- 30 (b) at least 140 hours a month during at least 9 months in a fiscal year; or

1 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board
2 and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a
3 school district operating under an alternative school calendar must be applied uniformly to all employees of the
4 school district required to be reported to the retirement system.

5 (11) "Internal Revenue Code" has the meaning provided in ~~15-30-2101~~ 15-1-101.

6 (12) "Joint annuitant" means the one person that a retired member who has elected an optional allowance
7 under 19-20-702 has designated to receive a retirement allowance upon the death of the retired member.

8 (13) "Member" means a person who has an individual account in the annuity savings account. Unless
9 otherwise specified, "member" refers to a tier one member or a tier two member. An active member is a person
10 included under the provisions of 19-20-302. An inactive member is a person included under the provisions of
11 19-20-303.

12 (14) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the
13 lifetime of the retired member.

14 (15) "Normal retirement age" means an age no earlier than 60 years of age.

15 (16) "Part-time service" means service that is not full-time service. Part-time service must be credited in
16 the proportion that the actual time worked compares to full-time service.

17 (17) "Position reportable to the retirement system" means a position in which an individual performs
18 duties that would entitle the person to active membership in the retirement system under the provisions of
19 19-20-302.

20 (18) "Regular interest" means interest at a rate set by the retirement board in accordance with
21 19-20-501(2).

22 (19) "Retired", "retired member", or "retiree" means a person who is considered in retired member status
23 under the provisions of 19-20-810.

24 (20) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member
25 who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

26 (21) "Retirement board" or "board" means the retirement system's governing board provided for in
27 2-15-1010.

28 (22) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of
29 Montana provided for in 19-20-102.

30 (23) "Service" means the performance of duties that would entitle the person to active membership in the

1 retirement system under the provisions of 19-20-302.

2 (24) "Termination" or "terminate" means that the employment relationship between the member and the
3 member's employer has been terminated as required in 19-20-810.

4 (25) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,
5 amounts provided under a window or early retirement incentive plan, or other payments contingent on the
6 employee terminating employment.

7 (b) Termination pay does not include:

8 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without
9 regard to the wage base limitation; and

10 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section
11 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

12 (26) "Tier one member" means a person who became a member before July 1, 2013, and who has not
13 withdrawn the member's account balance.

14 (27) "Tier two member" means a person who became a member on or after July 1, 2013, or who, after
15 withdrawing the member's account balance, became a member again after July 1, 2013.

16 (28) "Vested" means that a member has been credited with at least 5 full years of membership service
17 upon which contributions have been made and has a right to a future retirement benefit.

18 (29) "Written application" or "written election" means a written instrument, required by statute or the rules
19 of the board, properly signed and filed with the board, that contains all the required information, including
20 documentation that the board considers necessary."
21

22 **Section 73.** Section 19-20-706, MCA, is amended to read:

23 **"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and
24 19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the
25 provisions of the retirement system and the accumulated contributions and cash and securities in the various
26 funds of the retirement system are:

27 (1) exempted from any state, county, or municipal tax of the state of Montana except for:

28 ~~_____ (a) a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c);~~
29 ~~or~~

30 ~~_____ (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June~~

1 30, 1985, as provided in 19-20-602;

2 (2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity,
3 or any other process; and

4 (3) unassignable except as specifically provided in this chapter."
5

6 **Section 74.** Section 19-21-212, MCA, is amended to read:

7 **"19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or
8 withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse
9 who is the custodial parent of the child, contracts, benefits, and contributions under the university system
10 retirement program and the earnings on the contributions are:

11 (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to~~
12 ~~15-30-2110(2)(c)~~; exempt from any state, county, or municipal tax;

13 (2) not subject to execution, garnishment, attachment, or other process;

14 (3) not covered or assessable by an insurance guaranty association; and

15 (4) unassignable except as specifically provided in the contracts."
16

17 **Section 75.** Section 19-50-101, MCA, is amended to read:

18 **"19-50-101. Definitions.** For the purposes of this chapter, unless a different meaning is plainly implied
19 by the context, the following definitions apply:

20 (1) "Administrator" or "board" means the public employees' retirement board created in 2-15-1009 or an
21 appropriate officer of a political subdivision.

22 (2) "Deferred compensation" means the income that an employee may legally defer in a deferred
23 compensation plan established under this chapter pursuant to the rulings of the internal revenue service and that,
24 while invested, is exempt from ~~state and~~ federal income tax on the employee's contribution and on the interest,
25 dividends, and capital gains until ultimately distributed to the employee.

26 (3) "Eligible deferred compensation plan" means a plan meeting the requirements of section 457 of the
27 Internal Revenue Code, 26 U.S.C. 457.

28 (4) "Employee" means any person, including independent contractors and elected officials, receiving
29 compensation from the state or a political subdivision for performing services.

30 (5) "Fund" means the state deferred compensation investment account.

1 (6) "Participant" means either an employee who is enrolled or a previous employee who remains enrolled
2 in an eligible deferred compensation plan established under this chapter.

3 (7) "Political subdivision" means any city, town, county, or other political subdivision of the state of
4 Montana, including the Montana university system.

5 (8) "Roth account" means a separate account within a deferred compensation plan established under
6 this chapter that is composed of after-tax contributions made pursuant to section 402A of the Internal Revenue
7 Code, 26 U.S.C. 402A.

8 (9) "Roth deferral" means an after-tax contribution by a participant to the participant's deferred
9 compensation account."

10

11 **Section 76.** Section 20-9-543, MCA, is amended to read:

12 **"20-9-543. (Temporary) School flexibility fund -- uses.** (1) (a) The trustees of a district shall establish
13 a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

14 (i) technological equipment enhancements and expansions considered by the trustees to support
15 enhanced educational programs in the classroom;

16 (ii) facility expansion and remodeling considered by the trustees to support the delivery of educational
17 programs or the removal and replacement of obsolete facilities;

18 (iii) supplies and materials considered by the trustees to support the delivery of enhanced educational
19 programs;

20 (iv) student assessment and evaluation;

21 (v) the development of curriculum materials;

22 (vi) training for classroom staff considered by the trustees to support the delivery of enhanced educational
23 programs;

24 (vii) purchase, lease, or rental of real property that must be used to provide free or reduced price housing
25 for classroom teachers;

26 (viii) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom
27 teachers and other certified staff, subject to collective bargaining when applicable; or

28 (ix) increases in energy costs caused by an increase in energy rates from the rates paid by the district
29 in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other
30 resources of the district; ~~or~~

1 ~~_____ (x) innovative educational programs as defined in 20-9-902 and technology deficiencies.~~

2 (b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal
3 year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund
4 to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

5 (2) The trustees of a district shall fund the school flexibility fund with the money allocated under ~~{20-9-904~~
6 ~~and} 20-9-542 and with the money raised by the levy under 20-9-544.~~

7 (3) The financial administration of the school flexibility fund must be in accordance with the financial
8 administration provisions of this title for a budgeted fund. ~~(Subsection (1)(a)(x) and bracketed language in~~
9 ~~subsection (2) terminate December 31, 2023--sec. 33, Ch. 457, L. 2015.)~~

10 **20-9-543. (Effective January 1, 2024) School flexibility fund -- uses.** (1) (a) The trustees of a district
11 shall establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures
12 incurred for:

13 (i) technological equipment enhancements and expansions considered by the trustees to support
14 enhanced educational programs in the classroom;

15 (ii) facility expansion and remodeling considered by the trustees to support the delivery of educational
16 programs or the removal and replacement of obsolete facilities;

17 (iii) supplies and materials considered by the trustees to support the delivery of enhanced educational
18 programs;

19 (iv) student assessment and evaluation;

20 (v) the development of curriculum materials;

21 (vi) training for classroom staff considered by the trustees to support the delivery of enhanced educational
22 programs;

23 (vii) purchase, lease, or rental of real property that must be used to provide free or reduced price housing
24 for classroom teachers;

25 (viii) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom
26 teachers and other certified staff, subject to collective bargaining when applicable; or

27 (ix) increases in energy costs caused by an increase in energy rates from the rates paid by the district
28 in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other
29 resources of the district.

30 (b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal

1 year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund
2 to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

3 (2) The trustees of a district shall fund the school flexibility fund with the money allocated under 20-9-542
4 and with the money raised by the levy under 20-9-544.

5 (3) The financial administration of the school flexibility fund must be in accordance with the financial
6 administration provisions of this title for a budgeted fund."

7

8 **Section 77.** Section 20-25-503, MCA, is amended to read:

9 **"20-25-503. Presumptions and rules as to domicile.** (1) Unless the contrary appears to the unit
10 registering authority, it is presumed the domicile of a minor is that:

11 (a) of the parents or, if one of them is deceased or they do not share the same domicile, of the parent
12 having legal custody or, if neither parent has legal custody, the parent with whom the minor customarily resides;

13 or

14 (b) of the minor's guardian when the court appointing the guardian certifies that the primary purpose of
15 the appointment is not to qualify the minor as a resident of this state.

16 (2) A resident student who marries a nonresident does not by that fact alone lose resident status for
17 tuition and fee purposes for a period of 4 years after marriage.

18 (3) Residence is not lost because of relocation as a member of the armed forces of the United States.

19 (4) A new domicile is established by a qualified person if the person is physically present in Montana with
20 no intention to acquire a domicile outside of Montana.

21 (5) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

22 (6) Montana high school graduates who are citizens or resident aliens of the United States are resident
23 students of the system for 4 consecutive years of attendance if:

24 (a) they apply for admittance to the system within 1 year after graduation; and

25 (b) their parents or the parent having legal custody or, if neither parent has legal custody, the parent with
26 whom they customarily reside has resided in Montana in one of the 2 years immediately preceding the
27 graduation.

28 (7) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana may
29 apply for in-state tuition classification for the adult's spouse or any dependent minor child, or both. If the person
30 meets the requirement of full-time employment within the state of Montana, ~~and files for the payment of Montana~~

1 ~~state income taxes or files estimates of those taxes or is subject to withholding of those taxes and renounces~~
 2 ~~residency in any other state, and is not in the state primarily as a student, the person's spouse or any dependent~~
 3 ~~minor child, or both, may at the next registration after qualifying be classified at the in-state rate so long as the~~
 4 ~~person continues a Montana domicile. In the administration of this subsection, neither the full-time employee or~~
 5 ~~spouse is eligible for in-state tuition classification if the primary purpose for coming to Montana was the education~~
 6 ~~of the employee or spouse."~~

7

8 **Section 78.** Section 20-25-504, MCA, is amended to read:

9 **"20-25-504. Evidence as to domiciliary intent -- changes in status.** (1) To determine the domicile of
 10 a person, the units of the system shall ~~apply the following rules:~~

11 ~~—— (a) Nonpayment of Montana income tax by a person whose income is sufficient to be taxed is highly~~
 12 ~~persuasive evidence of non-Montana domicile.~~

13 ~~—— (b) A person shall intend consider whether the person intends to establish a domicile in Montana.~~

14 (2) After registration, a student's classification for tuition and fee purposes remains unchanged in the
 15 absence of evidence to the contrary. A written statement of the evidence must be filed with the registering
 16 authority of the unit. Changes in classification must be in writing signed by the registering authority and take effect
 17 at the student's next registration.

18 (3) A minor shall qualify for a change in status only if the minor's parents or the parent having legal
 19 custody or, if neither parent has legal custody, the parent with whom the minor customarily resides or legal
 20 guardian or person having legal custody completes the requirements for establishing domicile.

21 (4) It is presumed a minor or adult registered as a full-time student at any unit is not qualified for a
 22 change in the person's dependent's classification for tuition and fee purposes unless the person completes 12
 23 continuous months of residence while not attending a unit of the system or other institution of higher learning or
 24 while serving in the armed forces.

25 (5) Any student whose request for classification as a resident student is denied has the right of appeal
 26 to the executive secretary of the Montana university system. Immediately upon rejection and at the request of the
 27 student, the registering authority shall forward a copy of the authority's decision and a complete file on the student
 28 to the executive secretary. The executive secretary may accept other evidence of residence from either the
 29 student, the registering authority, or other interested persons. Within 30 days of the receipt of the decision of the
 30 registering authority, the executive secretary shall determine the resident status of the student and shall notify

1 the student and the registering authority of the decision. The executive secretary's decision may be appealed to
2 the regents if the regents agree to entertain an appeal."

3

4 **Section 79.** Section 25-13-402, MCA, is amended to read:

5 **"25-13-402. How writ executed.** (1) (a) The sheriff or levying officer shall, subject to subsections (6)
6 and (7), execute the writ against the property of the judgment debtor not later than 120 days after receipt of the
7 writ by:

8 (i) levying on a sufficient amount of property if there is sufficient property;

9 (ii) collecting or selling the things in action; and

10 (iii) selling the other property and paying to the judgment creditor or the judgment creditor's attorney as
11 much of the proceeds as will satisfy the judgment.

12 (b) (i) If the third party is a corporation or other legal entity, service must be accomplished by personally
13 serving the writ upon an officer or supervising employee of the third party or upon a department or person
14 designated by the third party or by serving the writ by mail, as provided in subsection (1)(b)(ii).

15 (ii) Service by mail upon a corporation or other legal entity must be consented to in writing by the
16 corporation or other legal entity and may be made by mailing a copy of the writ to an officer or supervising
17 employee of the third party or to a department or person designated by the third party. Service may be mailed
18 out of state, at the direction of the third party, if the third party processes garnishments or levies from a location
19 outside the state. If service is by mail, it must be accompanied by a notice that the officer or employee receiving
20 the writ is required to forward the writ to the person responsible for processing the levy for the third party if the
21 officer or employee initially receiving the writ is not the proper party to process the levy. The writ must be
22 considered served on the date and time that the writ is received by the officer, supervising employee, or designee
23 of the third party, but not later than 5 business days after it is mailed.

24 (c) A levy under subsection (1)(b) is effective when the writ is served by personal service or by mail as
25 provided in subsection (1)(b)(ii).

26 (2) Any proceeds in excess of the judgment and accruing costs must be returned to the judgment debtor
27 unless otherwise directed by the judgment or order of the court. When the sheriff or levying officer determines
28 that there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs,
29 the sheriff or levying officer shall levy only on the part of the property that the judgment debtor may indicate if the
30 property indicated is sufficient to satisfy the judgment and costs.

1 (3) With respect to property held by a third party, including but not limited to banks, credit unions, and
2 other financial institutions and those parties identified in 25-13-306, the third party shall respond to the levy based
3 on the assets held at the time of levy. Response must be made within 10 business days following the date of the
4 levy by delivering the assets or payments to the sheriff or levying officer.

5 (4) Except for perishable property, the sheriff or levying officer shall hold any property or money levied
6 upon for 10 days, excluding weekends and holidays, following notification of execution upon the judgment debtor.
7 After that time, the sheriff or levying officer may sell the property and pay the money to the judgment creditor.

8 (5) If the first levy is not sufficient to satisfy the writ, the sheriff or levying officer may levy, from time to
9 time and as often as necessary, within the 120 days until the judgment is satisfied or the writ expires.

10 (6) (a) A levy upon the earnings of a judgment debtor continues in effect for 120 days or until the
11 judgment is satisfied, whichever occurs first. The levy applies to earnings due on or after the date of service
12 through the expiration of the writ. Earnings withheld from a judgment debtor must be remitted to the sheriff or
13 levying officer within 5 days of the day the earnings are withheld.

14 (b) The sheriff or levying officer shall clearly mark the expiration date upon all served copies of the writ
15 and notice.

16 (c) Except as provided in subsection (8), multiple levies served under this subsection (6) have priority
17 according to the date and time of service upon the employer.

18 (d) The return of service on a levy upon the earnings of a judgment debtor is returned in the same
19 manner provided for in 25-13-404.

20 (7) (a) A levy upon a state tax refund or any other funds that are due to the judgment debtor from a
21 Montana state agency continues in effect for 120 days or until the judgment is satisfied, whichever occurs first.

22 (b) Upon written consent of the department of revenue, service of the writ on the department may be
23 accomplished by electronic means.

24 (c) The levy applies to any funds due on or after the date of service through the expiration of the writ.

25 (d) Payment of funds withheld from a judgment debtor must be remitted to the sheriff or levying officer
26 within 10 days of the date the funds would have been sent to the judgment debtor in the normal course of
27 business. Any levy on state funds is subordinate to the department of revenue's right of offset for delinquent taxes
28 or other debt as provided in ~~15-30-2609, 15-30-2629, 15-31-404~~, 15-36-315, 15-39-106, 15-39-109, 15-68-516,
29 15-70-110, 15-72-113, Title 17, chapter 4, and 39-51-1307.

30 (8) This section is not intended to supersede any state or federal laws regarding priority that must be

1 given to certain levies and executions."

2

3 **Section 80.** Section 27-1-732, MCA, is amended to read:

4 **"27-1-732. Immunity of nonprofit corporation officers, directors, and volunteers.** (1) An officer,
5 director, or volunteer of a nonprofit corporation is not individually liable for any action or omission made in the
6 course and scope of the officer's, director's, or volunteer's official capacity on behalf of the nonprofit corporation.
7 This section does not apply to liability for willful or wanton misconduct. The immunity granted by this section does
8 not apply to the liability of a nonprofit corporation.

9 (2) For purposes of this section, "nonprofit corporation" means:

10 ~~—— (a) an organization exempt from taxation under section 501(c) of the Internal Revenue Code, 26 U.S.C.~~
11 ~~501(c), as amended; or~~

12 ~~—— (b) a corporation or organization that is eligible for or has been granted tax-exempt status by the~~
13 ~~department of revenue under the provisions of 15-31-102."~~

14

15 **Section 81.** Section 30-20-204, MCA, is amended to read:

16 **"30-20-204. (Temporary) Property tax exemption for manufacturing of ammunition components**
17 **-- conditions -- real property exemption applies to safety zone.** (1) A person or entity in this state engaged
18 in the primary business of the manufacture of ammunition components that meets the conditions in subsections
19 (2) through (4) is exempt from:

20 (a) property taxes levied for state educational purposes under 15-10-108, 20-9-331, 20-9-333, ~~20-9-360,~~
21 and 20-25-439; and

22 (b) business equipment tax levied pursuant to 15-6-138.

23 (2) A person or entity in this state engaged in the primary business of the manufacture of ammunition
24 components is exempt from property taxation as provided under subsection (1) if the person's or entity's business
25 meets the following conditions:

26 (a) the products of the business are and remain available to commercial and individual consumers in
27 the state;

28 (b) the business sells its products to in-state commercial and individual consumers for a price no greater
29 than that for out-of-state purchasers, including any products that leave the state regardless of destination or
30 purchaser; and

1 (c) the business does not enter into any agreement or contract that could actually or potentially command
2 or commit all of its production to out-of-state consumers or interfere with or prohibit sales and provision of
3 products to in-state consumers.

4 (3) The exemptions allowed under subsection (1) apply only to the property and business activity
5 attributable to the manufacture of ammunition components.

6 (4) The real property exemption allowed under subsection (1)(a) encompasses any property within 500
7 yards of a structure used for the manufacture of ammunition components or of any structure used for storage of
8 products manufactured onsite. (Terminates December 31, 2024--sec. 16, Ch. 440, L. 2015.)"

9

10 **Section 82.** Section 32-3-401, MCA, is amended to read:

11 **"32-3-401. General powers.** A credit union may:

12 (1) make contracts as provided for in this chapter;

13 (2) sue and be sued;

14 (3) adopt and use a common seal and alter the seal;

15 (4) acquire, lease, hold, and dispose of property, either in whole or in part, necessary or incidental to its
16 operations;

17 (5) at the discretion of the board of directors, require the payment of an entrance fee or annual
18 membership fee, or both, of any person admitted to membership;

19 (6) receive savings from its members in the form of shares or special-purpose thrift accounts;

20 (7) lend its funds to its members as provided in this chapter;

21 (8) borrow from any source up to 50% of total assets, after deduction of the notes payable account;

22 (9) discount and sell any eligible obligations, subject to rules prescribed by the department of
23 administration;

24 (10) sell all or substantially all of its assets or purchase all or substantially all of the assets of another
25 credit union, subject to the approval of the department;

26 (11) invest surplus funds as provided in this chapter;

27 (12) make deposits in legally chartered banks, savings banks, cooperative banks, building and loan
28 associations, savings and loan associations, trust companies, and corporate credit unions;

29 (13) assess charges to members in accordance with the bylaws for failure to meet promptly their
30 obligations to the credit union;

1 (14) hold membership in other credit unions organized under this chapter or other laws and in other
2 associations and organizations composed of credit unions;

3 (15) declare dividends and pay interest refunds to borrowers as provided in this chapter;

4 (16) collect, receive, and disburse money in connection with the sale of negotiable checks, money orders,
5 and other money type instruments and for other purposes that provide benefit or convenience to its members and
6 charge a reasonable fee for the services;

7 (17) perform tasks and missions that are requested by the federal government or this state or any agency
8 or political subdivision of the federal government or this state, if approved by the board of directors and if not
9 inconsistent with this chapter;

10 (18) contribute to, support, or participate in any nonprofit service facility whose services will benefit the
11 credit union or its membership, subject to regulations prescribed by the department;

12 (19) make donations or contributions to any civic, charitable, or community organizations as authorized
13 by the board of directors, subject to regulations prescribed by the department;

14 (20) purchase or make available insurance for its directors, officers, agents, employees, and members;

15 (21) act as custodian or trustee of individual retirement accounts, as custodian or trustee of pension funds
16 of self-employed individuals or of the sponsor of the credit union, or as custodian or trustee under any other
17 pension or profit-sharing plan if the funds of the accounts are invested in shares of the credit union;

18 (22) act as custodian or trustee for ~~medical care savings accounts as provided in 15-61-204~~ or health
19 savings accounts if qualified as provided in 26 CFR 1.408-2; or

20 (23) act as fiscal agent for and receive deposits from the federal government, this state, or any agency
21 or political subdivision of the federal government or this state."

22

23 **Section 83.** Section 33-22-2002, MCA, is amended to read:

24 **"33-22-2002. Small business health insurance pool -- definitions.** As used in this part, the following
25 definitions apply:

26 (1) "Board" means the board of directors of the small business health insurance pool as provided for in
27 33-22-2003.

28 (2) "Dependent" has the meaning provided in 33-22-1803.

29 (3) (a) "Eligible small employer" means an employer who is sponsoring or will sponsor a group health
30 plan and who employed at least two but not more than nine employees during the preceding calendar year and

1 who employs at least two but not more than nine employees on the first day of the plan year.

2 (b) The term includes small employers who obtain group health plan coverage through a qualified
3 association health plan.

4 (4) "Employee" means an eligible employee as defined in 33-22-1803.

5 (5) "Group health plan" means health insurance coverage offered in connection with a group health plan
6 or health insurance coverage offered to an eligible group as described in 33-22-501.

7 (6) "Premium" means the amount of money that a health insurance issuer charges to provide coverage
8 under a group health plan.

9 (7) "Premium assistance payment" means a payment provided for in 33-22-2006 on behalf of employees
10 who qualify to be applied on a monthly basis to premiums paid for group health plan coverage through the
11 purchasing pool or through qualified association health plans.

12 (8) "Premium incentive payment" means a payment provided for in 33-22-2007(1)(b) to eligible small
13 employers who qualify under 33-22-2007 to be applied to premiums paid on a monthly basis for group health plan
14 coverage obtained through the purchasing pool or through qualified association health plans.

15 (9) "Purchasing pool" means the small business health insurance pool.

16 (10) "Qualified association health plan" means a plan established by an association whose members
17 consist of employers who sponsor group health plans for their employees and purchase that coverage through
18 an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided
19 for in administrative rule. A qualified association health plan is subject to applicable employer group health
20 insurance law and must receive approval from the commissioner to operate as a qualified association health plan
21 for the purposes of this part.

22 (11) "Related employers" means:

23 (a) affiliates or affiliated entities or persons who directly or indirectly, through one or more intermediaries,
24 control, are controlled by, or are under common control with a specified entity or person; or

25 (b) entities or persons that are eligible to file a combined or joint tax return for purposes of state taxation.

26 ~~(12) "Tax credit" means a refundable tax credit as provided for in 33-22-2008.~~

27 ~~(13)~~(12) "Tax year" means the taxpayer's tax year for federal income tax purposes."
28

29 **Section 84.** Section 33-22-2004, MCA, is amended to read:

30 **"33-22-2004. Powers and duties of board.** (1) The board shall:

1 (a) establish an operating plan that includes but is not limited to administrative and accounting
2 procedures for the operation of the purchasing pool and a schedule for premium incentive payments and premium
3 assistance payments and that complies with the powers and duties provided for in this section;

4 (b) require eligible small employers and employees to reapply for premium incentive payments or
5 premium assistance payments on an annual basis;

6 (c) upon timely reapplication, give priority to eligible small employers and their employees who are
7 already receiving the premium incentive payments and premium assistance payments. If the reapplication is more
8 than 30 days late, the priority will not be given and the eligible small employer will be added to the waiting list
9 provided for in 33-22-2008.

10 (d) upon timely reapplication as provided in subsection (1)(c), allow eligible small employers to retain
11 eligibility to receive premium incentive payments and premium assistance payments on behalf of their employees
12 if the number of their employees goes over the maximum number, not to exceed nine employees, established
13 by the commissioner in administrative rule;

14 (e) renew purchasing pool group health plan coverage for all employer groups, even if the employer
15 group no longer receives or is eligible for a premium incentive payment or premium assistance payment;

16 (f) adopt a premium incentive payment schedule that is based on a percentage of the eligible small
17 employer's share of the premium and apply the schedule uniformly to all registered eligible small employers who
18 join the purchasing pool or obtain qualified association health plan coverage;

19 (g) adopt premium assistance payment amounts that, in combination with the premium incentive
20 payments, are consistent with the amounts provided for in 33-22-2006 and 33-22-2008 or, with the assistance
21 of the department of public health and human services, adopt a premium assistance payment schedule that is
22 equitably proportional to the income or wage level for employees;

23 (h) establish criteria for determining which employees will be eligible for a premium assistance payment
24 and the amount that the employees will receive from among those eligible small employer groups that have
25 registered with the commissioner pursuant to 33-22-2008 and applied for coverage under the purchasing pool
26 group health plan or qualified association health plan. However, to the extent that federal funds are used to make
27 some premium assistance payments, criteria for those payments must be consistent with any waiver
28 requirements determined by the department of public health and human services pursuant to 53-2-216. Eligibility
29 for employees is not limited to the waiver eligibility groups.

30 (i) make appropriate changes to eligibility or other elements in the operating plan as needed to reach

1 the goal of expending 90% of the funding dedicated to premium incentive payments and premium assistance
2 payments during the current biennium;

3 (j) limit the total amount of premium incentive payments and premium assistance payments paid to the
4 amount of available state, federal, and private funding;

5 (k) approve no more than six fully insured group health plans with different benefit levels that will be
6 offered to eligible small employers participating in the purchasing pool;

7 (l) prepare appropriate specifications and bid forms and solicit bids from health insurance issuers
8 authorized to do business in this state;

9 (m) contract with no more than three health insurance issuers to underwrite the group health plans that
10 will be offered through the purchasing pool;

11 (n) request that the department of public health and human services seek a federal waiver for medicaid
12 matching funds for premium assistance payments based on the department's analysis, as provided in 53-2-216,
13 if it is in the best interests of the purchasing pool;

14 (o) comply with the participation requirements provided for in 33-22-1811;

15 (p) meet at least four times annually; and

16 (q) within 2 years after the purchasing pool is established and considered stable by the board, examine
17 the possibility of offering an opportunity for individual sole proprietors without employees to purchase insurance
18 from the purchasing pool without premium incentive payments, or premium assistance payments, ~~or tax credits.~~

19 (2) The board may:

20 (a) borrow money;

21 (b) enter into contracts with insurers, administrators, or other persons;

22 (c) hire employees to perform the administrative tasks of the purchasing pool;

23 (d) assess its members for costs associated with administration of the purchasing pool and request that
24 the commissioner transfer funds or request that the department of public health and human services transfer
25 funds from the special revenue account, as provided in 53-6-1201, for that purpose;

26 (e) set contribution levels for eligible small employers;

27 ~~(f) at least 30 days before the end of the current fiscal year, request that funds be transferred from the~~
28 ~~funds appropriated for premium incentive payments and premium assistance payments to the department of~~
29 ~~revenue for reimbursement of the general fund to offset tax credits if the number of eligible small employers~~
30 ~~seeking premium incentive payments and employees receiving premium assistance payments is insufficient to~~

1 exhaust the appropriated funds for the premium incentive payments and premium assistance payments during
2 a fiscal year;

3 ~~—— (g) at least 90 days before the end of the current fiscal year, request that funds be transferred from the~~
4 ~~funds allocated for tax credits to the funds appropriated for premium incentive payments and premium assistance~~
5 ~~payments if the number of eligible small employers seeking tax credits is insufficient to exhaust the funds~~
6 ~~allocated for tax credits during a fiscal year;~~

7 (h)(f) seek other federal, state, and private funding sources;

8 (h)(g) accept all small employers who apply for coverage under the small business health insurance pool
9 group health plan even if they are not eligible for ~~any tax credit or a~~ premium incentive payment and have not
10 been registered by the commissioner pursuant to 33-22-2008;

11 (h)(h) receive from the commissioner's office or the department of public health and human services
12 premium incentive payments on behalf of eligible small employers and premium assistance payments on behalf
13 of employees, collect the employer or employee premiums from the eligible small employer or employees, and
14 make premium payments to insurers on behalf of the eligible small employers and employees;

15 (h)(i) request the commissioner to direct more than 30% of the available funding for premium incentive
16 payments and premium assistance payments to qualified association health plan coverage instead of purchasing
17 pool coverage; and

18 (h)(j) pay appropriate commissions to licensed insurance producers who market purchasing pool
19 coverage."
20

21 **Section 85.** Section 33-22-2005, MCA, is amended to read:

22 **"33-22-2005. Duties of commissioner -- rulemaking authority.** Subject to the conditions in 53-6-1201,
23 the commissioner shall:

24 (1) adopt rules regarding the implementation of this part, including rules regarding the administration of
25 the premium incentive payments, premium assistance payments, ~~and tax credits,~~ the approval of qualified
26 association health plans, and the registration process. ~~The rules regarding tax credits may not relate to the filing~~
27 ~~of tax returns and claiming the tax credit on the tax returns.;~~

28 (2) supervise the creation of the purchasing pool within the limits described in this part;

29 (3) approve or disapprove the operating plan for the purchasing pool;

30 (4) if the board chooses to hire one, approve or disapprove the selection of a third-party administrator

1 to handle the administration of the purchasing pool;

2 (5) with the assistance of the department of public health and human services, approve or disapprove
3 the schedule of premium incentive payment or premium assistance payment amounts adopted by the board as
4 provided in 33-22-2004;

5 (6) approve or disapprove any contracts between a health insurance issuer and the purchasing pool;

6 (7) approve or disapprove all group health plans being offered by insurers through the purchasing pool;

7 (8) conduct periodic audits of the financial transactions conducted by the purchasing pool;

8 (9) allow up to 30%, or more if requested by the board and approved by the commissioner, of the
9 available funding for the premium incentive payments and premium assistance payments to be applied to small
10 group health plan coverage purchased through a qualified association health plan;

11 (10) make applicable premium incentive payments or premium assistance payments for qualified
12 association health plan coverage on behalf of eligible small employers and employees or direct the purchasing
13 pool to make the payments; and

14 (11) approve or disapprove associations as qualified if their members consist of employers who sponsor
15 group health plan coverage for their employees and purchase that coverage through an association that qualifies
16 as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A
17 qualified association health plan is subject to applicable employer group health insurance law."

18

19 **Section 86.** Section 33-22-2006, MCA, is amended to read:

20 **"33-22-2006. Premium incentive payments; and premium assistance payments, ~~and tax credits~~**
21 **for small employer health insurance premiums paid -- eligibility for small group coverage -- amounts. (1)**

22 An employer is eligible to apply for premium incentive payments and premium assistance payments ~~or a tax credit~~
23 under this part if the employer and any related employers:

24 (a) did not have more than the number of employees established for eligibility by the commissioner at
25 the time of registering for premium incentive payments or premium assistance payments ~~or a tax credit~~ under
26 33-22-2008;

27 (b) provide or will provide a group health plan that meets the requirements of creditable coverage for the
28 employer's and any related employer's employees;

29 (c) do not have delinquent state tax liability owing to the department of revenue from previous years; and

30 (d) have been registered as eligible small employer participants by the commissioner as provided in

1 33-22-2008.

2 ~~————(2) In addition to the requirements in subsection (1), a small employer is eligible to apply for a tax credit~~
 3 ~~under this part if the small employer and any related employers do not have any employees, not including an~~
 4 ~~owner, partner, or shareholder of the business, who received more than \$75,000 in wages, as defined in~~
 5 ~~39-71-123, from the small employer or related employer in the prior tax year.~~

6 ~~————(3) In addition to the requirements of subsections (1) and (2), an owner, partner, or shareholder of an~~
 7 ~~eligible small employer who received more than \$75,000 in wages, as defined in 39-71-123, and those individuals'~~
 8 ~~spouses who are employees are not eligible under this chapter for a tax credit for group health plan premiums~~
 9 ~~paid by the eligible small employer for group health plan coverage for the individual or the individual's~~
 10 ~~dependents.~~

11 ~~(4)(2)~~ In addition to the requirements in subsection (1), an owner or employee is not eligible to apply for
 12 a premium assistance payment under this part if the owner or employee has a household income greater than
 13 400% of the federal poverty level for the year in which an application or application renewal is made.

14 ~~(5)(3)~~ Subject to the requirements of subsection ~~(4)(2)~~, the small business health insurance pool may
 15 authorize a premium incentive payment for the premium share paid by an eligible small employer and related
 16 employers for a group health plan for:

- 17 (a) the owner or employee of the eligible small employer and related employers;
 18 (b) a spouse of an owner or employee provided for in subsection ~~(5)(a)~~ ~~(3)(a)~~; or
 19 (c) dependents of the owner or employee provided for in subsection ~~(5)(a)~~ ~~(3)(a)~~.

20 ~~(6)(4)~~ An employee, including an owner, partner, or shareholder or any dependent of an employee, who
 21 is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or
 22 medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance
 23 payment.

24 ~~(7)(5)~~ The commissioner shall establish, by rule, the maximum number of employees that an employer
 25 may employ to be qualified as an eligible small employer under subsection (1). ~~The maximum number may be~~
 26 ~~different for eligible small employers seeking premium incentive payments and premium assistance payments~~
 27 ~~than for eligible small employers seeking a tax credit.~~ The number must be set to maximize the number of
 28 employees receiving coverage under this part. The commissioner may not change the maximum employee
 29 number more often than every 6 months. If the maximum number of allowable employees is changed, the change
 30 does not disqualify registered eligible small employers with respect to the tax year for which the eligible small

1 employer has registered.

2 ~~—— (8) Except as provided in subsection (3), an eligible small employer may claim a tax credit in the following~~
3 ~~amounts:~~

4 ~~—— (a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's~~
5 ~~spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is under 45~~
6 ~~years of age; or~~

7 ~~—— (ii) not more than \$125 each month for each employee and \$100 each month for each employee's~~
8 ~~spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is 45 years~~
9 ~~of age or older; and~~

10 ~~—— (b) not more than \$40 each month for each dependent, other than the employee's spouse, if the eligible~~
11 ~~small employer is paying for coverage for the dependents, not to exceed two dependents of an employee in~~
12 ~~addition to the employee's spouse:~~

13 ~~—— (9) An eligible small employer may not claim a tax credit:~~

14 ~~—— (a) in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small~~
15 ~~group;~~

16 ~~—— (b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or~~

17 ~~—— (c) for premiums for which a deduction is claimed under 15-30-2131 or 15-31-114.~~

18 ~~(10)(6)~~ An eligible small employer may not claim a premium incentive payment in excess of 50% of the
19 total premiums paid by the eligible small employer for the qualifying small group."
20

21 **Section 87.** Section 33-22-2007, MCA, is amended to read:

22 **"33-22-2007. Filing for tax credit—filing for premium incentive payments and premium assistance**
23 **payments.** (1) An eligible small employer may:

24 ~~—— (a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15,~~
25 ~~chapter 30 or 31; or~~

26 ~~—— (b) apply to receive monthly premium incentive payments and premium assistance payments to be~~
27 ~~applied to coverage obtained through the purchasing pool or qualified association health plan coverage approved~~
28 ~~by the commissioner.~~

29 ~~—— (2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for~~
30 ~~the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided~~

1 for in subsection (1)(b):

2 ~~(3)(2)~~ The premium incentive payments and premium assistance payments provided for in subsection
3 (1)(b) must be paid pursuant to a plan of operation implemented by the board and any applicable administrative
4 rules.

5 ~~(4) (a) If an eligible small employer's tax credit as provided in subsection (1)(a) exceeds the employer's~~
6 ~~liability under 15-30-2103 or 15-31-121, the amount of the excess must be refunded to the eligible small~~
7 ~~employer. The tax credit may be claimed even if the eligible small employer has no tax liability under 15-30-2103~~
8 ~~or 15-31-121.~~

9 ~~_____ (b) A tax credit is not allowed under 15-30-2367, 15-31-132, or any other provision of Title 15, chapter~~
10 ~~30 or 31, with respect to any amount for which a tax credit is allowed under this part.~~

11 ~~(5)(3)~~ The department of revenue or the commissioner may grant a reasonable extension for filing a
12 claim for premium incentive payments or premium assistance payments ~~or a tax credit~~ whenever, in the
13 department's or the commissioner's judgment, good cause exists. The department of revenue and the
14 commissioner shall keep a record of each extension and the reason for granting the extension.

15 ~~(6)(4)~~ (a) If an employer that would have a claim under this part ceases doing business before filing the
16 claim, the representative of the employer who ~~files the tax return~~ or pays the premium may file the claim.

17 (b) If a corporation that would have a claim under this part merges with or is acquired by another
18 corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium
19 incentive payments; or premium assistance payments; ~~or tax credit~~ in the future, the surviving or acquired
20 corporation may file for the premium incentive payments; or premium assistance payments; ~~or tax credit~~ for any
21 claim period during which the former eligible corporation remained eligible.

22 (c) If an employer that would have a claim under this part files for bankruptcy protection, the receiver may
23 file for the premium incentive payments; or premium assistance payments; ~~or tax credit~~ for any claim period
24 during which the employer was eligible."

25

26 **Section 88.** Section 33-22-2008, MCA, is amended to read:

27 **"33-22-2008. Registration -- funding limitations -- transfers -- maximum number -- waiting list--**
28 **information transfer for tax credits.** (1) (a) Each eligible small employer that proposes to apply for premium
29 incentive payments and premium assistance payments ~~or a tax credit~~ under this part must be registered each
30 year with the commissioner.

1 (b) An eligible small employer may submit a new application for the premium incentive payments and
2 premium assistance payments ~~or the tax credit~~ anytime during the year, but in order to maintain the employer's
3 registration for the next year, the registration application must be renewed each year.

4 (c) The registration application must include the number of individuals covered, as of the date of the
5 registration application, under the small group health plan for which the employer is seeking premium incentive
6 payments and premium assistance payments ~~or a tax credit~~. If, after the initial registration, the number of
7 individuals increases, the employer may apply to register the additional individuals, but those additional
8 individuals may be added only at the discretion of the commissioner, who shall limit enrollment based on available
9 funds.

10 (d) A small employer is not eligible to apply for premium incentive payments and premium assistance
11 payments ~~or a tax credit~~ for a number of employees, or the employees' spouses or dependents, over the number
12 that has been established in 33-22-2006 as the maximum number of employees a small employer may have in
13 order to qualify for registration for the time period in question.

14 (e) A small employer's registration for premium incentive payments and premium assistance payments
15 ~~or a tax credit~~ is irrevocable for 12 months or until the purchasing pool group health plan or qualified association
16 health plan renews its registration, whichever time period is less. An eligible small employer may choose to
17 discontinue receiving any premium incentive payments and premium assistance payments ~~or tax credits~~ at any
18 time.

19 (2) The commissioner shall register qualifying eligible small employers in the order in which applications
20 are received ~~and according to whether the application is for premium incentive payments and premium assistance~~
21 ~~payments or a tax credit. Initially, 60% of the available funding must be dedicated to provide and maintain~~
22 ~~premium incentive payments and premium assistance payments for eligible small employers who chose to join~~
23 ~~the purchasing pool or a qualified association health plan and 40% of the available funding must be dedicated~~
24 ~~to tax credits for eligible small employers who currently sponsor a small group health plan that provides creditable~~
25 ~~coverage. Funding may be transferred from the allocated fund for premium incentive payments and premium~~
26 ~~assistance payments to the general fund for tax credits or from the funds allocated for tax credits to the allocated~~
27 ~~fund for premium incentive payments and premium assistance payments if the board requests the transfer as~~
28 ~~provided in 33-22-2004 and the commissioner approves the request.~~

29 (3) (a) The maximum number of eligible small employers is reached when the anticipated amount of
30 claims for premium incentive payments and premium assistance payments ~~and tax credits~~ has reached 100%

1 of the amount of money allocated for premium incentive payments and premium assistance payments ~~and tax~~
2 ~~credits.~~

3 (b) The commissioner may establish a waiting list for applicants that are otherwise qualified for
4 registration but cannot be registered because of a lack of money or because the maximum number of eligible
5 small employers has been reached.

6 (c) The commissioner shall mail to each employer registered under this section a notice of registration
7 containing a unique registration number and indicating eligibility for ~~either~~ premium incentive payments and
8 premium assistance payments ~~or a tax credit~~. The commissioner shall also issue to each employer that is eligible
9 for premium incentive payments and premium assistance payments ~~or the tax credit~~ a certificate, placard, sticker,
10 or other evidence of participation that may be publicly posted.

11 (d) The commissioner shall notify all persons who applied for registration and who were not accepted
12 that they were not registered and the reason that they were not registered.

13 (4) A prospective participant shall apply for registration on a form provided by the commissioner. The
14 prospective participant shall:

15 (a) provide the number of employees and whether the employer qualifies under 33-22-2006;

16 (b) provide information that is necessary to estimate the amount of the premium incentive payments and
17 premium assistance payments payable to the applicant ~~or the amount of the tax credit available to the applicant~~,
18 such as the ages of employees or dependents, relationships of employees' dependents, and information required
19 by the department of public health and human services for determination of eligibility for premium assistance
20 payments matched by federal funds;

21 (c) indicate whether the prospective employer intends to pursue the claim ~~as a tax credit through the~~
22 ~~income tax process or through~~ premium incentive payments and premium assistance payments to be applied
23 toward purchasing pool or eligible qualified association health plan coverage; and

24 (d) provide any additional information determined by the commissioner to be necessary to support an
25 application.

26 (5) Each year, an eligible small employer shall timely reregister with the commissioner in order to
27 determine the participant's continued eligibility. The commissioner shall accept applications for continued
28 registration:

29 ~~(a)~~ for purchasing pool participants at any time within 12 months of the initial registration approval or
30 within the time period for renewal of the coverage under this part, whichever is longer;

1 ~~_____ (b) for tax credit participants on December 1 of each year. The commissioner shall stop accepting~~
 2 ~~renewal applications for tax credit participants 60 calendar days later.~~

3 ~~(6) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible small~~
 4 ~~employers that are taxpayers entitled to the tax credit and shall specify the taxpayer's name and tax identification~~
 5 ~~number, the tax year to which the credit applies, the amount of the credit, and whether the credit is to be applied~~
 6 ~~against taxes due on the taxpayer's return or paid as premium incentive payments or premium assistance~~
 7 ~~payments. Unless there has been a finding of fraud or misrepresentation on the part of the taxpayer regarding~~
 8 ~~issues relating to eligibility for the tax credit, the department of revenue may not redetermine or change the~~
 9 ~~commissioner's determination regarding the taxpayer's entitlement to and amount of the tax credit.~~

10 ~~(7)(6)~~ If the department of public health and human services receives approval for a section 1115 waiver
 11 as provided in 53-2-216, the commissioner shall work with the department of public health and human services
 12 with regard to eligibility determinations as required by federal law or waiver conditions."
 13

14 **Section 89.** Section 33-22-2009, MCA, is amended to read:

15 **"33-22-2009. Penalties.** (1) The commissioner may, after providing an opportunity for a hearing pursuant
 16 to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of this part. Failure to pay a fine under
 17 this section results in a lien upon the assets and property of that person in this state and may be recovered by
 18 suit by the commissioner and deposited in the special revenue account described in 53-6-1201.

19 (2) In addition to any penalty provided for in 33-1-317, the commissioner may require a person violating
 20 this part to make full restitution to the state, including interest of 10% a year from the date of loss, if a violation
 21 of this part caused a premium incentive payment or premium assistance payment to be paid ~~or a tax credit to be~~
 22 ~~issued~~ to a person who was not entitled to it.

23 (3) A person who purposely or knowingly violates this part and receives a premium incentive payment
 24 or premium assistance payment ~~or tax credit~~ that the person is not entitled to commits the offense of theft, which
 25 is punishable as provided in 45-6-301.

26 (4) A person who purposely or knowingly violates this part and makes false statements, knowing those
 27 statements are not true, commits the offense of unsworn falsification to authorities, which is punishable as
 28 provided in 45-7-203.

29 (5) Any fines or restitution collected pursuant to this section must be deposited in the special revenue
 30 account in 53-6-1201 and dedicated to the payment of premium incentive payments and premium assistance

1 payments or tax credits or funding new programs to assist eligible small employers with the cost of providing
2 health insurance benefits."

3

4 **Section 90.** Section 33-27-101, MCA, is amended to read:

5 **"33-27-101. Short title.** ~~Sections 15-30-2118, 15-30-2141, 15-31-117, 15-31-118, and this~~ This chapter
6 may be cited as the "Independent Liability Fund Act"."

7

8 **Section 91.** Section 33-27-102, MCA, is amended to read:

9 **"33-27-102. Purpose.** The purpose of ~~15-30-2118, 15-30-2141, 15-31-117, 15-31-118, and~~ this chapter
10 is to create a means by which small businesses operating in Montana may establish independent liability funds
11 to set aside assets or make investments to meet any liability claims that might be made against the small
12 businesses by third parties."

13

14 **Section 92.** Section 33-27-103, MCA, is amended to read:

15 **"33-27-103. Definitions.** As used in ~~15-30-2118, 15-30-2141, 15-31-117, 15-31-118, and~~ this chapter,
16 the following definitions apply:

17 (1) "Fiscal year" means the 12-month period used by a particular small business in preparing and filing
18 its ~~Montana federal~~ individual income tax, or corporate income tax, ~~or alternative corporate income tax~~ return.

19 (2) "Independent liability fund" means a collection of money, assets, and investments that has been set
20 aside by a small business to meet the needs of any liability claims, except workers' compensation claims, brought
21 against it by third parties.

22 (3) "Liability claim" means any legal or extralegal action by a third party asserting a right to compensation
23 for a wrong done to it by a small business with an independent liability fund.

24 (4) "Small business" means any commercial or nonprofit enterprise qualified to do business in the state
25 and qualified as a small business under the criteria established by the federal small business administration on
26 April 20, 1987.

27 (5) "Third party" means a person other than an employee or the management of a small business or of
28 a subsidiary or closely related enterprise of a small business."

29

30 **Section 93.** Section 35-1-944, MCA, is amended to read:

1 **"35-1-944. State dissolution or withdrawal certificate.** A decree of voluntary dissolution may not be
 2 made and entered by a court, nor shall the clerk of the district court of a county or secretary of state file a
 3 voluntary dissolution decree or file any other document by which the term of existence of a corporation is
 4 terminated, except a decree of involuntary dissolution in an action brought by the secretary of state. ~~The secretary~~
 5 ~~of state may not file an application for a certificate of withdrawal by a foreign corporation of its right to do intrastate~~
 6 ~~business in the state unless the corporation obtains from the department of revenue and files with the court, clerk~~
 7 ~~of the district court, or secretary of state, as part of the original instrument effecting the dissolution or withdrawal,~~
 8 ~~a dissolution or withdrawal certificate issued pursuant to 15-31-552(1) verifying that the corporation has filed all~~
 9 ~~applicable returns and has paid all taxes owing the state up to the date of the request for dissolution or~~
 10 ~~withdrawal. The issuance of the dissolution or withdrawal certificate or tax clearance certificate does not relieve~~
 11 ~~the corporation from liability for taxes, penalties, or interest due the state of Montana including taxes, penalties,~~
 12 ~~or interest incurred after the date of dissolution."~~

13

14 **Section 94.** Section 35-2-1401, MCA, is amended to read:

15 **"35-2-1401. Prohibited distributions -- permitted transactions.** (1) Except as authorized by
 16 35-2-1402, a corporation may not make any distributions.

17 (2) A public benefit corporation may, subject to the requirements of ~~Title 15, chapter 31, and this chapter,~~
 18 as applicable:

19 (a) pay reasonable compensation or reimburse reasonable expenses to members, directors, or officers
 20 for services rendered; and

21 (b) confer benefits upon or make contributions to members in conformity with its charitable purposes if
 22 after the transaction is completed:

23 (i) the corporation would be able to pay its debts as they become due in the usual course of its activities;

24 and

25 (ii) the corporation's total assets would at least equal the sum of its total liabilities."

26

27 **Section 95.** Section 37-4-104, MCA, is amended to read:

28 **"37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by**
 29 **personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased or
 30 a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to

1 practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal
 2 representative of a disabled dentist may contract with a dentist to manage the dental practice at an establishment
 3 where dental operations, oral surgery, or dental services are provided.

4 (2) A personal representative may not:

5 (a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product,
 6 process, or activity as it relates to the delivery of dental care;

7 (b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over
 8 all qualitative and quantitative aspects of the delivery of dental care;

9 (c) allow any person other than a dentist to supervise and control the selection, compensation, terms,
 10 conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice;

11 (d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by a dentist
 12 or the dentist's practice; or

13 (e) limit or define the scope of services offered by the dentist.

14 (3) For the purposes of this section:

15 (a) "clinical" means having a significant relationship, whether real or potential, direct or indirect, to the
 16 actual rendering or outcome of dental care, the practice of dentistry, or the quality of dental care being rendered
 17 to a patient;

18 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in~~
 19 ~~15-30-2110 means unable to engage in any substantial gainful activity by reason of any medically determined~~
 20 physical or mental impairment lasting or expected to last at least 12 months; and

21 (c) "personal representative" of the estate of a deceased dentist has the same meaning as provided for
 22 the term in 72-1-103.

23 (4) The 12-month period provided for in subsection (1) begins when:

24 (a) the personal representative of the estate of a deceased dentist files a verified copy of the death
 25 certificate of the deceased with the department; or

26 (b) the personal representative of the disabled dentist files a verified copy of a document signed by a
 27 licensed physician that attests to the dentist's disability."

28

29 **Section 96.** Section 45-6-301, MCA, is amended to read:

30 **"45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly

1 obtains or exerts unauthorized control over property of the owner and:

2 (a) has the purpose of depriving the owner of the property;

3 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
4 owner of the property; or

5 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
6 probably will deprive the owner of the property.

7 (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or
8 deception control over property of the owner and:

9 (a) has the purpose of depriving the owner of the property;

10 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
11 owner of the property; or

12 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
13 probably will deprive the owner of the property.

14 (3) A person commits the offense of theft when the person purposely or knowingly obtains control over
15 stolen property knowing the property to have been stolen by another and:

16 (a) has the purpose of depriving the owner of the property;

17 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
18 owner of the property; or

19 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
20 probably will deprive the owner of the property.

21 (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts
22 unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county
23 agency, regardless of the original source of assistance, by means of:

24 (a) a knowingly false statement, representation, or impersonation; or

25 (b) a fraudulent scheme or device.

26 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or
27 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter
28 71, by means of:

29 (a) a knowingly false statement, representation, or impersonation; or

30 (b) deception or other fraudulent action.

1 (6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance
2 fraud as provided in 33-1-1202 or 33-1-1302;

3 (b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102;
4 or

5 (c) purposely or knowingly receives small business health insurance premium incentive payments or
6 premium assistance payments ~~or tax credits~~ under Title 33, chapter 22, part 20, to which the person is not
7 entitled.

8 (7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive
9 the owner of the property, the person:

10 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer
11 or over property entrusted to the person; or

12 (b) purposely or knowingly obtains by deception control over property of the person's employer or over
13 property entrusted to the person.

14 (8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not
15 exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for
16 a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,500 or be
17 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or
18 subsequent offense shall be fined \$1,500 and be imprisoned in the county jail for a term of not less than 30 days
19 or more than 6 months.

20 (b) (i) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property
21 exceeding \$1,500 in value or theft of any amount of anhydrous ammonia for the purpose of manufacturing
22 dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term
23 not to exceed 10 years, or both.

24 (ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount
25 of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years,
26 or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service
27 during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the
28 offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

29 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement
30 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined

1 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the
2 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison
3 term may be ordered.

4 (9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
5 whether from the same person or several persons, may be aggregated in determining the value of the property."
6

7 **Section 97.** Section 47-1-111, MCA, is amended to read:

8 **"47-1-111. Eligibility -- determination of indigence -- rules.** (1) (a) When a court orders the office to
9 assign counsel to an applicant for public defender services, the office shall immediately assign counsel prior to
10 a determination under this section.

11 (b) If the person for whom counsel has been assigned is later determined pursuant to this section to be
12 ineligible for public defender services, the office shall immediately file a motion to rescind appointment so that
13 the court's order may be rescinded.

14 (c) (i) The applicant may request that the court conduct a hearing on the motion to rescind appointment.
15 If the applicant requests a hearing on the motion to rescind appointment, the court shall hold the hearing.

16 (ii) The sole purpose of the hearing is to determine the financial eligibility of the applicant for public
17 defender services. At the beginning of the hearing, the court shall admonish the parties that the scope of the
18 hearing is limited to determining the financial eligibility of the applicant for public defender services.

19 (iii) Only evidence related to the applicant's financial eligibility for public defender services may be
20 introduced at the hearing.

21 (iv) The applicant may not be compelled to testify at a hearing on the motion to rescind appointment.

22 (v) If the applicant testifies at the hearing, the applicant may be questioned only regarding financial
23 eligibility for public defender services.

24 (vi) If the applicant testifies at the hearing, the court shall advise the applicant that any testimony or
25 evidence introduced on the applicant's behalf other than testimony or evidence regarding financial eligibility may
26 be used during any criminal action.

27 (vii) Evidence regarding financial eligibility under this section may not be used in any criminal action,
28 except in a criminal action regarding a subsequent charge of perjury or false swearing related to the applicant's
29 claim of entitlement to public defender services.

30 (d) If the applicant does not request a hearing on the motion to rescind appointment, does not appear

1 at a hearing on the motion to rescind appointment, or does not testify or present evidence regarding financial
2 eligibility at the hearing on the motion to rescind appointment, the court shall find the applicant is not eligible to
3 have counsel assigned under Title 47 and shall grant the motion to rescind appointment and order the assignment
4 of counsel to be rescinded.

5 (e) A person for whom counsel is assigned is entitled to the full benefit of public defender services until
6 the court grants the motion to rescind appointment and orders the assignment of counsel to be rescinded.

7 (f) Any determination pursuant to this section is subject to the review and approval of the court. The
8 propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an
9 assignment.

10 (2) (a) An applicant for public defender services who is eligible for a public defender because the
11 applicant is indigent shall also provide a detailed financial statement and sign an affidavit. The court shall advise
12 the defendant that the defendant is subject to criminal charges for any false statement made on the financial
13 statement.

14 (b) The application, financial statement, and affidavit must be on a form prescribed by the commission.
15 The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be
16 prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

17 (c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or
18 criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant
19 for perjury or false swearing.

20 (d) The office may not withhold the timely provision of public defender services for delay or failure to fill
21 out an application. However, a court may find a person in civil contempt of court for a person's unreasonable
22 delay or failure to comply with the provisions of this subsection (2).

23 (3) An applicant is indigent if:

24 (a) the applicant's gross household income, ~~as defined in 15-30-2337~~, is at or less than 133% of the
25 poverty level set according to the most current federal poverty guidelines updated periodically in the Federal
26 Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2);
27 or

28 (b) the disposable income and assets of the applicant and the members of the applicant's household are
29 insufficient to retain competent private counsel without substantial hardship to the applicant or the members of
30 the applicant's household.

1 (4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or
2 solely because the applicant is employed.

3 (5) A determination may be modified by the office or the court if additional information becomes available
4 or if the applicant's financial circumstances change.

5 (6) The commission shall establish procedures and adopt rules to implement this section. Commission
6 procedures and rules:

7 (a) must ensure that the eligibility determination process is fair and consistent statewide;

8 (b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from
9 the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the
10 members of the applicant's household;

11 (c) may provide for the use of other public or private agencies or contractors to conduct eligibility
12 screening under this section;

13 (d) must avoid unnecessary duplication of processes; and

14 (e) must prohibit a public defender from performing eligibility screening for the public defender's own
15 cases pursuant to this section. A deputy public defender or individual public defender reviewing another public
16 defender's case may perform eligibility screening pursuant to this section.

17 (7) As used in this section, the following definitions apply:

18 (a) "Gross household income" means all income received by all individuals of a household while they
19 are members of the household.

20 (b) (i) "Household" means an association of persons who live in the same dwelling, sharing its
21 furnishings, facilities, accommodations, and expenses.

22 (ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

23 (c) (i) "Income" means, except as provided in subsection (7)(c)(ii), federal adjusted gross income, without
24 regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable
25 income, including but not limited to:

26 (A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
27 disability benefits;

28 (B) the amount of capital gains excluded from adjusted gross income;

29 (C) alimony;

30 (D) support money;

- 1 (E) nontaxable strike benefits;
- 2 (F) cash public assistance and relief;
- 3 (G) interest on federal, state, county, and municipal bonds; and
- 4 (H) all payments received under federal social security except social security income paid directly to a
- 5 nursing home.

6 (ii) For the purposes of this subsection (7)(c), income is reduced by the taxpayer's basis."

7

8 **Section 98.** Section 50-5-117, MCA, is amended to read:

9 **"50-5-117. Economic credentialing of physicians prohibited -- definitions.** (1) Except to the extent

10 necessary to determine physician competency or to comply with medicare or medicaid certification under Titles

11 XVIII and XIX of the Social Security Act, respectively, or for accreditation by organizations that accredit hospitals

12 or outpatient centers for surgical services, a hospital or an outpatient center for surgical services may not engage

13 in economic credentialing by:

14 (a) requiring a physician requesting medical staff membership or medical staff privileges to agree to

15 make referrals to that hospital, to an outpatient center for surgical services, or to any facility related to the hospital

16 or the outpatient center for surgical services;

17 (b) refusing to grant staff membership or medical staff privileges or conditioning or otherwise limiting a

18 physician's medical staff participation because the physician or a partner, associate, or employee of the physician:

19 (i) provides medical or health care services at, has an ownership interest in, or occupies a leadership

20 position on the medical staff of a different hospital, hospital system, or health care facility; or

21 (ii) participates or does not participate in any particular health plan; or

22 (c) refusing to grant participatory status in a hospital or hospital system health plan or outpatient center

23 for surgical services health plan to a physician who has medical staff privileges because the physician or a

24 partner, an associate, or an employee of the physician provides medical or health care services at, has an

25 ownership interest in, or occupies a leadership position on the medical staff of a different hospital, hospital

26 system, or health care facility.

27 (2) Notwithstanding the prohibitions in subsection (1), a hospital or an outpatient center for surgical

28 services may require recusal of a physician member of the board, the president of the medical staff of the hospital

29 or outpatient center for surgical services, or the presiding officer of a medical staff committee from financial

30 decisions and information related to the hospital or outpatient center for surgical services if the physician member

1 of the board, the president of the hospital medical staff or outpatient center for surgical services staff, or the
 2 presiding officer of a medical staff committee has a conflict of interest relevant to those decisions or that
 3 information.

4 (3) For the purposes of this section, the following definitions apply:

5 (a) "Board" means the governing body or board of directors of a hospital or an outpatient center for
 6 surgical services.

7 (b) "Conflict of interest" means, notwithstanding the board's own conflict of interest policy, a situation in
 8 which a physician in a leadership position either individually or through an immediate family member, ~~as defined~~
 9 ~~in 15-30-3002~~, or through a partner or employee of the physician has a financial interest in any health care facility
 10 that may compromise the board's fiduciary responsibility.

11 (c) (i) "Economic credentialing" means the denial of a physician's application for staff membership or
 12 clinical privileges to practice medicine in a hospital or an outpatient center for surgical services on criteria other
 13 than the individual's education, training, current competence, experience, ability, personal character, and
 14 judgment.

15 (ii) This term does not mean use by the hospital or the outpatient center for surgical services of:

16 (A) exclusive contracts with physicians if the contracts do not violate the unfair trade practices provisions
 17 of Title 30, chapter 14, part 2;

18 (B) medical staff on-call requirements if the on-call requirements do not violate the unfair trade practices
 19 and consumer protection provisions of 30-14-103 or Title 30, chapter 14, part 2;

20 (C) adherence to a formulary approved by the medical staff; or

21 (D) other medical staff policy adopted to manage health care costs or improve quality.

22 (d) "Health care facility" has the meaning provided in 50-5-101.

23 (e) "Health plan" means a plan offered by any person, employer, trust, government agency, association,
 24 corporation, or other entity to provide, sponsor, arrange for, indemnify another for, or pay for health care services
 25 to eligible members, insureds, enrollees, employees, participants, beneficiaries, or dependents, including but not
 26 limited to a health plan provided by an insurance company, health service organization, health maintenance
 27 organization, preferred provider organization, self-insured health plan, captive insurer, multiple employee welfare
 28 arrangement, workers' compensation plan, medicare, or medicaid.

29 (f) "Immediate family member" means a family member who is within the second degree of consanguinity
 30 or affinity.

1 (f)(g) "Physician" has the meaning provided in 37-3-102."

2

3 **Section 99.** Section 53-2-211, MCA, is amended to read:

4 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the
5 unemployment compensation program of the department of labor and industry all information contained in its files
6 and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as
7 defined in 53-2-902, and food stamps. The information made available must include information on the amount
8 and source of an applicant's income. The information received from the department must be used by the
9 department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the
10 unemployment compensation program of the state and for no other purpose.

11 (2) The department shall make available to the unemployment compensation and workers' compensation
12 programs of the department of labor and industry all information contained in its files and records pertaining to
13 eligibility of persons for low-income energy assistance and weatherization. The information made available must
14 include information on the amount and source of an applicant's income. The information received from the
15 department must be used by the department of labor and industry for the purpose of determining fraud, abuse,
16 or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state
17 and for no other purpose.

18 (3) (a) Subject to federal restrictions, the department may request information from the department of
19 labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. ~~If the~~
20 ~~department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers'~~
21 ~~compensation, or occupational benefits, the department of labor and industry may request information from the~~
22 ~~department of revenue pertaining to income as provided in 15-30-2618(9)(c).~~

23 (b) The information must be used by the department for the purpose of determining fraud, abuse, or
24 eligibility for benefits.

25 (4) The department may, to the extent permitted by federal law, make available to an agency of the state
26 or to any other organization information contained in its files and records pertaining to the eligibility of persons
27 for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income
28 energy assistance, weatherization, or other public assistance."

29

30 **Section 100.** Section 53-4-1103, MCA, is amended to read:

1 **"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

2 (1) "Comprehensive" means health insurance having benefits at least as extensive as those provided
3 under the children's health insurance program.

4 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

5 (3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including
6 children already enrolled in the programs described in 53-4-1104(2).

7 (4) (a) "Enrollment partner" means an organization or individual approved by the department to assist
8 in enrolling eligible children in the plan.

9 (b) An enrollment partner may be but is not limited to:

10 (i) a licensed health care provider;

11 (ii) a school;

12 (iii) a community-based organization; or

13 (iv) a government agency.

14 (5) "Health coverage" means a program administered by the department or a disability insurance plan,
15 referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

16 (6) "Income" has the meaning provided in ~~45-30-2337(9)(a)~~ 47-1-111.

17 (7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

18 (8) "Premium" means the amount of money charged to provide coverage under a public or private health
19 coverage plan.

20 (9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

21

22 **Section 101.** Section 53-6-1201, MCA, is amended to read:

23 **"53-6-1201. Special revenue fund -- health and medicaid initiatives.** (1) There is a health and
24 medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be
25 administered by the department of public health and human services.

26 (2) There must be deposited in the account:

27 (a) money from cigarette taxes deposited under 16-11-119(1)(d);

28 (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

29 (c) any interest and income earned on the account.

30 (3) This account may be used only to provide funding for:

1 (a) the state funds necessary to take full advantage of available federal matching funds in order to
 2 administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided
 3 for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

4 (b) a new need-based prescription drug program established by the legislature for children, seniors,
 5 chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

6 (c) increased medicaid services and medicaid provider rates. The increased revenue is intended to
 7 increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended
 8 traditional level of appropriation for medicaid services and medicaid provider rates.

9 (d) an offset to loss of revenue to the general fund as a result of new tax credits;

10 (e) funding new programs to assist eligible small employers with the costs of providing health insurance
 11 benefits to eligible employees;

12 (f) the cost of administering ~~the tax credit~~, the purchasing pool; and the premium incentive payments and
 13 premium assistance payments as provided in Title 33, chapter 22, part 20; and

14 (g) providing a state match for the medicaid program for premium incentive payments or premium
 15 assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.

16 (4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each
 17 program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve
 18 balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the
 19 budget director determines that the reserve balance of the revenue will not support the level of appropriation, the
 20 budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating
 21 budget for the program to reflect the available revenue as determined by the budget director.

22 (b) Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established,
 23 the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

24 (5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the
 25 appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility
 26 standards, services authorized, and payment amount during the past five biennial budgets.

27 (6) The department of public health and human services may adopt rules to implement this section."
 28

29 **Section 102.** Section 53-6-1317, MCA, is amended to read:

30 **"53-6-1317. (Temporary) Duties of Montana HELP Act oversight committee -- reports.** (1) To

1 provide reports and make recommendations to the legislature, the oversight committee on the Montana Health
2 and Economic Livelihood Partnership Act shall review:

3 (a) data from and activities by the department of public health and human services and the department
4 of labor and industry related to the health care and workforce development activities undertaken pursuant to the
5 HELP Act;

6 (b) the Montana medicaid program; and

7 (c) the delivery of health care services in Montana.

8 (2) The departments shall report the following information to the oversight committee quarterly:

9 (a) the number of individuals who were determined eligible for medicaid-funded services pursuant to
10 53-6-1304;

11 (b) demographic information on program participants;

12 (c) the average length of time that participants remained eligible for medical assistance;

13 (d) the number of participants who completed an employment or reemployment assessment;

14 (e) the number of participants who took part in workforce development activities;

15 ~~_____ (f) the number of participants subject to the fee provided for in 15-30-2660 and the total amount of fees~~
16 ~~collected;~~

17 ~~(g)(f)~~ the level of participant engagement in wellness activities or incentives offered by health care
18 providers or the third-party administrator;

19 ~~(h)(g)~~ the number of participants who reduced their dependency on the HELP Act program, either
20 voluntarily or because of increased income levels; and

21 ~~(i)(h)~~ the total cost of providing services under Title 39, chapter 12, and this part, including related
22 administrative costs.

23 (3) The committee shall review and provide comment on administrative rules proposed for carrying out
24 activities under Title 39, chapter 12, and this part. The committee may ask the appropriate administrative rule
25 review committee to object to a proposed rule as provided in 2-4-406.

26 (4) The committee shall:

27 (a) review how implementation of the act is being carried out, including the collection of copayments and
28 premiums for health care services;

29 (b) evaluate how health care services are delivered and whether new approaches could improve delivery
30 of care, including but not limited to the use of medical homes and coordinated care organizations;

- 1 (c) review ideas to reduce or minimize the shifting of the payment of unreimbursed health care costs to
2 patients with health insurance;
- 3 (d) evaluate whether providing incentives to health care providers for meeting measurable benchmarks
4 may improve the delivery of health care services;
- 5 (e) review options for reducing the inappropriate use of emergency department services;
- 6 (f) review ways to monitor for the excessive or inappropriate use of prescription drugs;
- 7 (g) examine ways to:
- 8 (i) promote the appropriate use of health care services, particularly laboratory and diagnostic imaging
9 services;
- 10 (ii) increase the availability of mental health services;
- 11 (iii) reduce fraud and waste in the medicaid program; and
- 12 (iv) improve the sharing of data among health care providers to identify patterns in the use of health care
13 services across payment sources;
- 14 (h) receive regular reports from the department on the department's efforts to pursue contracting options
15 for administering services to members eligible for medicaid-funded services pursuant to 53-6-1304;
- 16 (i) coordinate its efforts with any legislative committees that are working on matters related to health care
17 and the delivery of health care services; and
- 18 (j) recommend future funding options for the HELP Act program to future legislatures.
- 19 (5) The committee shall summarize and present its findings and recommendations in a final report to the
20 governor and to the legislative finance committee no later than August 15 of each even-numbered year. Copies
21 of the report must be provided to the children, families, health, and human services interim committee.
22 (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)"

23

24 **Section 103.** Section 61-3-321, MCA, is amended to read:

25 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**
26 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon
27 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,
28 semitrailers, and pole trailers as provided in subsections (2) through (20).

29 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light
30 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- 1 (a) if the vehicle is ~~4~~ 10 or less years old, ~~\$217~~ \$50; and
- 2 ~~(b) if the vehicle is 5 through 10 years old, \$87; and~~
- 3 ~~(c)~~(b) if the vehicle is 11 or more years old, ~~\$28~~ \$25.
- 4 (3) Except as provided in subsection (15), the one-time registration fee based on the declared weight
- 5 of a trailer, semitrailer, or pole trailer is as follows:
- 6 (a) if the declared weight is less than 6,000 pounds, \$61.25; or
- 7 (b) if the declared weight is 6,000 pounds or more, \$148.25.
- 8 (4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and
- 9 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:
- 10 (a) 2,850 pounds and over, \$10; and
- 11 (b) under 2,850 pounds, \$5.
- 12 (5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other
- 13 than a quadricycle or motorcycle is \$61.25.
- 14 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.
- 15 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:
- 16 (i) less than 2 years old, \$282.50;
- 17 (ii) 2 years old and less than 5 years old, \$224.25;
- 18 (iii) 5 years old and less than 8 years old, \$132.50; and
- 19 (iv) 8 years old and older, \$97.50.
- 20 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee
- 21 under this section may permanently register the motor home upon payment of:
- 22 (i) a one-time registration fee of \$237.50;
- 23 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be
- 24 deposited in the account established under 61-6-158;
- 25 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- 26 (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate
- 27 license plate under 61-3-465.
- 28 (8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and
- 29 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles
- 30 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

1 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as
2 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

3 (9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the
4 length of the travel trailer, is as follows:

5 (a) under 16 feet in length, \$72; and

6 (b) 16 feet in length or longer, \$152.

7 (10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat,
8 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

9 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,
10 \$65.50;

11 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in
12 length, \$125.50; and

13 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

14 (11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a
15 snowmobile is \$60.50.

16 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose
17 of daily rental to customers is assessed:

18 (A) a fee of \$40.50 in the first year of registration; and

19 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.

20 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently
21 registered and the business is assessed the registration fee imposed in subsection (11)(a).

22 (12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

23 (b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a
24 low-speed restricted driver's license is \$25.

25 (c) The one-time registration fee for golf carts authorized to operate on certain public streets and
26 highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal,
27 which must be displayed visibly on the golf cart.

28 (13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of
29 standard license plates, a new single standard license plate, or a replacement set of special license plates
30 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously

1 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be
2 paid if the vehicle to which the plates are transferred is not currently registered.

3 (b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate
4 number from license plates issued before January 1, 2010, when replacement of those plates is required under
5 61-3-332(3).

6 (c) The fees imposed in this subsection (13) must be deposited in the account established under
7 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

8 (14) The provisions of this part with respect to the payment of registration fees do not apply to and are
9 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled
10 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle
11 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g),
12 (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

13 (15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle,
14 quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile,
15 motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle
16 is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the
17 fees imposed under this section.

18 (16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

19 (17) Except as otherwise provided in this section, revenue collected under this section must be deposited
20 in the state general fund.

21 (18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the
22 enumerated vehicles or vessels that constitute inventory of the dealership.

23 (19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of
24 \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and
25 transmitted separately from the registration fee. The fee must be deposited in an account in the state special
26 revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities.
27 Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing
28 access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

29 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person
30 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election

1 not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not
2 be collected.

3 (c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify
4 that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may
5 make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is
6 made, the fee may not be collected at any subsequent annual registration unless the person makes the written
7 election to pay the additional fee on one or more of the light vehicles.

8 (ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered
9 to a different person.

10 (20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,
11 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be
12 collected and forwarded to the state for deposit in the account established in 44-1-504.

13 (21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by
14 61-3-721."

15

16 **Section 104.** Section 61-3-562, MCA, is amended to read:

17 **"61-3-562. Permanent registration -- transfer of light vehicle ownership -- rules.** (1) ~~(a)~~ The owner
18 of a light vehicle ~~44 years old or older~~ subject to the registration fee, as provided in 61-3-321(2), may permanently
19 register the light vehicle upon payment of a ~~\$87.50~~ \$50.00 registration fee, the applicable registration and license
20 fees under 61-3-412, if applicable, the administrative fee and the annual one-time-only donation fee for a generic
21 specialty license plate under 61-3-480 or collegiate license plates under 61-3-465, and an amount equal to ~~five~~
22 two times the local option motor vehicle tax or flat fee on vehicles under 61-3-537 and, as applicable, either:

23 ~~(i) (A) (a) (i)~~ the original fee and four times the renewal fee for personalized plates; or

24 ~~(B) (ii)~~ five times the renewal fees for personalized plates; or

25 ~~(ii) (b)~~ if a new set of license plates is not being issued, an insurance verification fee of \$5, which must
26 be deposited in the account established under 61-6-158.

27 ~~(b) The following series of license plates may not be used for purposes of permanent registration of a~~
28 ~~light vehicle:~~

29 ~~(i) Montana national guard license plates issued under 61-3-458(2)(b);~~

30 ~~(ii) reserve armed forces license plates issued under 61-3-458(2)(c); and~~

1 ~~_____ (iii) amateur radio operator license plates issued under 61-3-422.~~

2 (2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated
3 capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under
4 61-10-201.

5 (3) The owner of a motor vehicle that is permanently registered under this section is not subject to
6 additional registration fees or to other motor vehicle registration fees described in this section for as long as the
7 owner owns the vehicle.

8 (4) The county treasurer shall once each month remit to the state the amounts collected under this
9 section, other than the local option motor vehicle tax or flat fee, for the purposes of 61-3-321(2) and 61-10-201.
10 The county treasurer shall retain the local option motor vehicle tax or flat fee.

11 (5) (a) The permanent registration of a light vehicle allowed by this section may not be transferred to a
12 new owner. If the light vehicle is transferred to a new owner, the department shall cancel the light vehicle's
13 permanent registration.

14 (b) Upon transfer of a light vehicle registered under this section to a new owner, the new owner shall
15 apply for a certificate of title under 61-3-201 and 61-3-216 and register the light vehicle under 61-3-303."
16

17 **Section 105.** Section 61-6-158, MCA, is amended to read:

18 **"61-6-158. Vehicle insurance verification and license plate operating account.** (1) There is a vehicle
19 insurance verification and license plate operating account in the state special revenue fund type as provided in
20 17-2-102.

21 (2) Fees imposed under 61-3-321(7)(b)(ii) and (13), 61-3-333, 61-3-465(1)(b)(i), 61-3-480(2)(c)(i), or
22 61-3-562(1)(a)(ii)(1)(b) or established and collected under 61-6-105 must be deposited in the account.

23 (3) The money in the vehicle insurance verification and license plate operating account must be used
24 by the department to pay costs incurred in or associated with the operation, maintenance, and enhancement of
25 the system established under 61-6-157 and the contract required in 61-3-338 for the manufacture and distribution
26 of license plates by Montana correctional enterprises."
27

28 **Section 106.** Section 67-11-303, MCA, is amended to read:

29 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
30 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms that

1 it may determine, payable out of any revenue of the authority, including revenue derived from:

2 (a) an airport or air navigation facility or facilities;

3 (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;

4 (c) grants or contributions from the federal government; or

5 (d) other sources.

6 (2) The bonds may be issued by resolution of the authority, without an election and without any limitation
7 of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become
8 due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or
9 sources is pledged exceeds the amount of revenue to be received in that year as estimated in the resolution
10 authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose,
11 maintain, and collect rates, charges, rentals, and taxes, if any is pledged, sufficient to make the revenue from the
12 pledged source in the year at least equal to the amount of principal and interest due in that year.

13 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.
14 Except as otherwise provided in this section, any bonds issued pursuant to this chapter by an authority may be
15 payable as to principal and interest solely from revenue of the authority and must state on their face the applicable
16 limitations or restrictions regarding the source from which the principal and interest are payable.

17 (4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared
18 to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of~~
19 ~~15-30-2110(2)(a)~~.

20 (5) For the security of bonds, the authority or municipality may by resolution make and enter into any
21 covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a
22 municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and
23 interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this
24 chapter, prior to the payment of current costs of operation and maintenance of the facilities.

25 (6) Subject to the conditions stated in this subsection, the governing body of any municipality having a
26 population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by
27 an authority in which the municipality is included, may by resolution covenant that in the event that at any time
28 all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest
29 then due, it shall, subject to 15-10-420, levy a general tax upon all of the taxable property in the municipality for
30 the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to

1 occur within 1 year for the payment of principal and interest due on the bonds, it shall, subject to 15-10-420, levy
2 a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the taxes are
3 limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that more than
4 one municipality having a population in excess of 10,000 is included in an authority issuing bonds pursuant to
5 this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in anticipation of,
6 a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may determine. The
7 resolution must state the principal amount and purpose of the bonds and the substance of the covenant
8 respecting deficiencies. A resolution may not be effective until the question of its approval has been submitted
9 to the qualified electors of the municipality at a special election called for that purpose by the governing body of
10 the municipality and a majority of the electors voting on the question have voted in favor of the resolution. The
11 special election must be held in conjunction with a regular or primary election. The notice and conduct of the
12 election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7,
13 chapter 7, part 42, for an election called by cities and towns and as provided for county general obligation bonds
14 in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors voting on the issue vote
15 against approval of the resolution, the municipality may not make the covenant or levy a tax for the payment of
16 deficiencies pursuant to this section, but the municipality or authority may issue bonds under this chapter payable
17 solely from the sources referred to in subsection (1)."

18

19 **Section 107.** Section 70-9-803, MCA, is amended to read:

20 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is
21 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular
22 property:

23 (a) traveler's check, 15 years after issuance;

24 (b) money order, 7 years after issuance;

25 (c) stock or other equity interest in a business association or financial organization, including a security
26 entitlement under Title 30, chapter 8, 5 years after the earlier of:

27 (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the
28 apparent owner; or

29 (ii) the date of the second mailing of a statement of account or other notification or communication that
30 was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the

1 apparent owner;

2 (d) debt of a business association or financial organization, other than a bearer bond or an original issue
3 discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent
4 owner;

5 (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after
6 the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit
7 that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity
8 unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or
9 is evidenced by a memorandum or other record on file with the holder;

10 (f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the
11 obligation accrued;

12 (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if
13 redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value.
14 A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year
15 sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the
16 inflation factor defined in ~~15-30-2101~~ subsection (7). The amount considered abandoned for a person who sells
17 more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that
18 trigger.

19 (h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has
20 matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon
21 proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the
22 mortality table on which the reserve is based;

23 (i) property distributable by a business association or financial organization in a course of dissolution,
24 1 year after the property becomes distributable;

25 (j) property received by a court as proceeds of a class action and not distributed pursuant to the
26 judgment, 1 year after the distribution date;

27 (k) property held by a court, government, governmental subdivision, agency, or instrumentality, 1 year
28 after the property becomes distributable;

29 (l) wages or other compensation for personal services, 1 year after the compensation becomes payable;

30 (m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes

1 payable;

2 (n) property in an individual retirement account, defined benefit plan, or other account or plan that is
3 qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of
4 the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan
5 or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws
6 of the United States by which distribution of the property must begin in order to avoid a tax penalty;

7 (o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under
8 Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution
9 date;

10 (p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community
11 in which the cooperative is located, 5 years after the distribution date; and

12 (q) all other property, 5 years after the owner's right to demand the property or after the obligation to pay
13 or distribute the property arises, whichever first occurs.

14 (2) At the time that an interest is presumed abandoned under subsection (1), any other property right
15 accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also
16 presumed abandoned.

17 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has
18 not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf
19 of the holder with the holder concerning the property or the account in which the property is held and has not
20 otherwise indicated an interest in the property. A communication with an owner by a person other than the holder
21 or its representative who has not in writing identified the property to the owner is not an indication of interest in
22 the property by the owner.

23 (4) An indication of an owner's interest in property includes:

24 (a) the presentment of a check or other instrument of payment of a dividend or other distribution made
25 with respect to an account or underlying stock or other interest in a business association or financial organization
26 or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been
27 received;

28 (b) owner-directed activity in the account in which the property is held, including a direction by the owner
29 to increase, decrease, or change the amount or type of property held in the account;

30 (c) the making of a deposit to or withdrawal from an account in a financial organization; and

1 (d) the payment of a premium with respect to a property interest in an insurance policy; however, the
2 application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance
3 policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the
4 beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender
5 value of a policy by the application of those provisions.

6 (5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to
7 make demand or present an instrument or document otherwise required to obtain payment.

8 (6) The presumption provided in subsection (1) does not apply to:

9 (a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses the
10 refunds exclusively for educational purposes; or

11 (b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or civic
12 purposes in the community in which the cooperative is located.

13 (7) For the purpose of this section, the following definitions apply:

14 (a) "Consumer price index" means the consumer price index, United States city average, for all items,
15 for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics
16 of the U.S. department of labor.

17 (b) "Inflation factor" means a number determined for each tax year by dividing the consumer price index
18 for June of the previous year by the consumer price index for June 2015."

19

20 **Section 108.** Section 75-2-103, MCA, is amended to read:

21 **"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
22 apply:

23 (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous
24 substances, or any combination of those air contaminants.

25 (2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere,
26 including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42
27 U.S.C. 7401, et seq.

28 (3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend
29 to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere
30 with the enjoyment of life, property, or the conduct of business.

- 1 (4) "Associated supporting infrastructure" means:
2 (a) electric transmission and distribution facilities;
3 (b) pipeline facilities;
4 (c) aboveground ponds and reservoirs and underground storage reservoirs;
5 (d) rail transportation;
6 (e) aqueducts and diversion dams;
7 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy
8 development project; or
9 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development
10 project.
- 11 (5) "Board" means the board of environmental review provided for in 2-15-3502.
- 12 (6) (a) "Commercial hazardous waste incinerator" means:
13 (i) an incinerator that burns hazardous waste; or
14 (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.
15 (b) Commercial hazardous waste incinerator does not include a research and development facility that
16 receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste
17 treatment remediation technologies.
- 18 (7) "Department" means the department of environmental quality provided for in 2-15-3501.
- 19 (8) "Emission" means a release into the outdoor atmosphere of air contaminants.
- 20 (9) (a) "Energy development project" means each plant, unit, or other development and associated
21 developments, including any associated supporting infrastructure, designed for or capable of:
22 (i) generating electricity;
23 (ii) producing gas derived from coal;
24 (iii) producing liquid hydrocarbon products;
25 (iv) refining crude oil or natural gas;
26 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
27 pursuant to Title 15, chapter 70, part 5;
28 (vi) producing biodiesel ~~and that are eligible for a tax incentive for the production of biodiesel pursuant~~
29 ~~to 15-32-704~~; or
30 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or

1 greater than 50 kilovolts.

2 (b) The term does not include a nuclear facility as defined in 75-20-1202.

3 (10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant
4 to Title 75, chapter 2, 5, 10, or 11.

5 (11) "Hazardous waste" means:

6 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
7 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

8 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

9 (12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible
10 material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of
11 removal, destruction, disposal, or volume reduction of any portion of the input material.

12 (b) Incinerator does not include:

13 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
14 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

15 (ii) space heaters that burn used oil;

16 (iii) wood-fired boilers; or

17 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

18 (13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of
19 human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.

20 The term includes:

21 (a) cultures and stocks of infectious agents;

22 (b) human pathological wastes;

23 (c) waste human blood or products of human blood;

24 (d) sharps;

25 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
26 to infectious agents during research;

27 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

28 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions
29 from humans or animals.

30 (14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

1 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or
2 storing oil, natural gas, or other liquids produced by the well; and

3 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
4 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
5 liquids produced by the wells.

6 (b) The equipment referred to in subsection (15)(a) includes but is not limited to wellhead assemblies,
7 amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting
8 tubing.

9 (c) The term does not include equipment such as compressor engines used for transmission of oil or
10 natural gas.

11 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private
12 corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal
13 government or an agency of the federal government, or any other legal entity and includes persons resident in
14 Canada.

15 (16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer,
16 parent corporation, or subsidiary corporation.

17 (17) "Small business stationary source" means a stationary source that:

18 (a) is owned or operated by a person who employs 100 or fewer individuals;

19 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

20 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
21 7661, et seq.;

22 (d) emits less than 50 tons per year of an air pollutant;

23 (e) emits less than a total of 75 tons per year of all air pollutants combined; and

24 (f) is not excluded from this definition under 75-2-108(3).

25 (18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
26 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial
27 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution
28 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
29 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;
30 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt

1 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or
2 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

3 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes
4 regulated under the mining and reclamation laws administered by the department of environmental quality, or
5 slash and forest debris regulated under laws administered by the department of natural resources and
6 conservation."

7

8 **Section 109.** Section 75-5-103, MCA, is amended to read:

9 **"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the following
10 definitions apply:

11 (1) "Associated supporting infrastructure" means:

12 (a) electric transmission and distribution facilities;

13 (b) pipeline facilities;

14 (c) aboveground ponds and reservoirs and underground storage reservoirs;

15 (d) rail transportation;

16 (e) aqueducts and diversion dams;

17 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy
18 development project; or

19 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development
20 project.

21 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface
22 water that are adopted to protect the designated uses of a surface water body.

23 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that
24 are adopted to protect human health.

25 (3) "Board" means the board of environmental review provided for in 2-15-3502.

26 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or
27 other wastes, creating a hazard to human health.

28 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

29 (6) (a) "Currently available data" means data that is readily available to the department at the time a
30 decision is made, including information supporting its previous lists of water bodies that are threatened or

1 impaired.

2 (b) The term does not mean new data to be obtained as a result of department efforts.

3 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a
4 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant
5 to 75-5-301(5)(c).

6 (8) "Department" means the department of environmental quality provided for in 2-15-3501.

7 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes
8 sewage systems and treatment works.

9 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of
10 chemical, physical, biological, and other constituents that are discharged into state waters.

11 (11) (a) "Energy development project" means each plant, unit, or other development and associated
12 developments, including any associated supporting infrastructure, designed for or capable of:

13 (i) generating electricity;

14 (ii) producing gas derived from coal;

15 (iii) producing liquid hydrocarbon products;

16 (iv) refining crude oil or natural gas;

17 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
18 pursuant to Title 15, chapter 70, part 5;

19 (vi) producing biodiesel ~~and that are eligible for a tax incentive for the production of biodiesel pursuant~~
20 ~~to 15-32-704~~; or

21 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or
22 greater than 50 kilovolts.

23 (b) The term does not include a nuclear facility as defined in 75-20-1202.

24 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether
25 or not those uses are included in the water quality standards.

26 (13) "High-quality waters" means all state waters, except:

27 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
28 the board's classification rules; and

29 (b) surface waters that:

30 (i) are not capable of supporting any one of the designated uses for their classification; or

1 (ii) have zero flow or surface expression for more than 270 days during most years.

2 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
3 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
4 standards.

5 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
6 development of any natural resource, together with any sewage that may be present.

7 (16) "Interested person" means a person who has a real property interest, a water right, or an economic
8 interest that is or may be directly and adversely affected by the department's preliminary decision regarding
9 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization
10 to degrade high-quality waters.

11 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
12 of its existing or future nonpoint sources or to natural background sources.

13 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation
14 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum
15 change that can occur from the best practicable condition in a surface water without causing a violation of the
16 surface water quality standards.

17 (19) "Local department of health" means the staff, including health officers, employed by a county, city,
18 city-county, or district board of health.

19 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,
20 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

21 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by
22 the department where water quality standards may be exceeded, subject to conditions that are imposed by the
23 department and that are consistent with the rules adopted by the board.

24 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
25 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because
26 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in
27 accordance with 75-5-313.

28 (23) "Nutrient work group" means an advisory work group, convened by the department, representing
29 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested
30 parties that will advise the department on the base numeric nutrient standards, the development of nutrient

1 standards variances, and the implementation of those standards and variances together with associated
2 economic impacts.

3 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,
4 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded
5 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

6 (25) "Outstanding resource waters" means:

7 (a) state surface waters located wholly within the boundaries of areas designated as national parks or
8 national wilderness areas as of October 1, 1995; or

9 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and
10 approved by the legislature.

11 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point
12 source.

13 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that
14 property affects the quality of the state water.

15 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,
16 partnership, individual, or other entity and includes persons resident in Canada.

17 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to
18 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating
19 craft, from which pollutants are or may be discharged.

20 (30) (a) "Pollution" means:

21 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that
22 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to
23 change in temperature, taste, color, turbidity, or odor; or

24 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other
25 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or
26 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

27 (b) The term does not include:

28 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge
29 permit rules adopted by the board under this chapter;

30 (ii) activities conducted under this chapter that comply with the conditions imposed by the department

1 in short-term authorizations pursuant to 75-5-308;

2 (iii) contamination of ground water within the boundaries of an underground mine using in situ coal
3 gasification and operating in accordance with a permit issued under 82-4-221.

4 (c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

5 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or
6 other buildings, including discharge from human beings or animals, together with ground water infiltration and
7 surface water present.

8 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other
9 wastes to an ultimate disposal point.

10 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge
11 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best
12 available demonstrated control technology, processes, operating methods, or other alternatives, including, when
13 practicable, a standard permitting no discharge of pollutants.

14 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or
15 underground.

16 (b) The term does not apply to:

17 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

18 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation
19 or land application disposal system and the waters are not returned to state waters.

20 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in
21 combination with narrative information, that supports a finding as to whether a water body is achieving compliance
22 with applicable water quality standards.

23 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data
24 and calculated increases in loads show that the water body or stream segment is fully supporting its designated
25 uses but threatened for a particular designated use because of:

26 (a) proposed sources that are not subject to pollution prevention or control actions required by a
27 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

28 (b) documented adverse pollution trends.

29 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for
30 point sources and load allocations for both nonpoint sources and natural background sources established at a

1 level necessary to achieve compliance with applicable surface water quality standards.

2 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,
3 industrial wastes, or other wastes.

4 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated
5 to one of its existing or future point sources.

6 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,
7 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve
8 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,
9 standards of performance, effluent standards, and operating procedures and practices to control site runoff,
10 spillage or leaks, sludge or water disposal, or drainage from material storage.

11 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or
12 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

13 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
14 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
15 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in
16 an advisory capacity as provided in 75-5-704.

17 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires
18 otherwise, in this chapter, the following definitions apply:

19 (1) "Associated supporting infrastructure" means:

20 (a) electric transmission and distribution facilities;

21 (b) pipeline facilities;

22 (c) aboveground ponds and reservoirs and underground storage reservoirs;

23 (d) rail transportation;

24 (e) aqueducts and diversion dams;

25 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy
26 development project; or

27 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development
28 project.

29 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface
30 water that are adopted to protect the designated uses of a surface water body.

1 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that
2 are adopted to protect human health.

3 (3) "Board" means the board of environmental review provided for in 2-15-3502.

4 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or
5 other wastes, creating a hazard to human health.

6 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

7 (6) (a) "Currently available data" means data that is readily available to the department at the time a
8 decision is made, including information supporting its previous lists of water bodies that are threatened or
9 impaired.

10 (b) The term does not mean new data to be obtained as a result of department efforts.

11 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a
12 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant
13 to 75-5-301(5)(c).

14 (8) "Department" means the department of environmental quality provided for in 2-15-3501.

15 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes
16 sewage systems and treatment works.

17 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of
18 chemical, physical, biological, and other constituents that are discharged into state waters.

19 (11) (a) "Energy development project" means each plant, unit, or other development and associated
20 developments, including any associated supporting infrastructure, designed for or capable of:

21 (i) generating electricity;

22 (ii) producing gas derived from coal;

23 (iii) producing liquid hydrocarbon products;

24 (iv) refining crude oil or natural gas;

25 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
26 pursuant to Title 15, chapter 70, part 5;

27 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant
28 to ~~15-32-704~~; or

29 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or
30 greater than 50 kilovolts.

1 (b) The term does not include a nuclear facility as defined in 75-20-1202.

2 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether
3 or not those uses are included in the water quality standards.

4 (13) "High-quality waters" means all state waters, except:

5 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
6 the board's classification rules; and

7 (b) surface waters that:

8 (i) are not capable of supporting any one of the designated uses for their classification; or

9 (ii) have zero flow or surface expression for more than 270 days during most years.

10 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
11 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
12 standards.

13 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
14 development of any natural resource, together with any sewage that may be present.

15 (16) "Interested person" means a person who has a real property interest, a water right, or an economic
16 interest that is or may be directly and adversely affected by the department's preliminary decision regarding
17 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization
18 to degrade high-quality waters.

19 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
20 of its existing or future nonpoint sources or to natural background sources.

21 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation
22 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum
23 change that can occur from the best practicable condition in a surface water without causing a violation of the
24 surface water quality standards.

25 (19) "Local department of health" means the staff, including health officers, employed by a county, city,
26 city-county, or district board of health.

27 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,
28 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

29 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by
30 the department where water quality standards may be exceeded, subject to conditions that are imposed by the

1 department and that are consistent with the rules adopted by the board.

2 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
3 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because
4 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in
5 accordance with 75-5-313.

6 (23) "Nutrient work group" means an advisory work group, convened by the department, representing
7 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested
8 parties that will advise the department on the base numeric nutrient standards, the development of nutrient
9 standards variances, and the implementation of those standards and variances together with associated
10 economic impacts.

11 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,
12 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded
13 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

14 (25) "Outstanding resource waters" means:

15 (a) state surface waters located wholly within the boundaries of areas designated as national parks or
16 national wilderness areas as of October 1, 1995; or

17 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and
18 approved by the legislature.

19 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point
20 source.

21 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that
22 property affects the quality of the state water.

23 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,
24 partnership, individual, or other entity and includes persons resident in Canada.

25 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to
26 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating
27 craft, from which pollutants are or may be discharged.

28 (30) (a) "Pollution" means:

29 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that
30 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to

1 change in temperature, taste, color, turbidity, or odor; or

2 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other
3 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or
4 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

5 (b) The term does not include:

6 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge
7 permit rules adopted by the board under this chapter;

8 (ii) activities conducted under this chapter that comply with the conditions imposed by the department
9 in short-term authorizations pursuant to 75-5-308;

10 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in
11 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11,
12 part 1; or

13 (iv) contamination of ground water within the boundaries of an underground mine using in situ coal
14 gasification and operating in accordance with a permit issued under 82-4-221~~;~~

15 (c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

16 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or
17 other buildings, including discharge from human beings or animals, together with ground water infiltration and
18 surface water present.

19 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other
20 wastes to an ultimate disposal point.

21 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge
22 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best
23 available demonstrated control technology, processes, operating methods, or other alternatives, including, when
24 practicable, a standard permitting no discharge of pollutants.

25 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or
26 underground.

27 (b) The term does not apply to:

28 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

29 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation
30 or land application disposal system and the waters are not returned to state waters.

1 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in
2 combination with narrative information, that supports a finding as to whether a water body is achieving compliance
3 with applicable water quality standards.

4 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data
5 and calculated increases in loads show that the water body or stream segment is fully supporting its designated
6 uses but threatened for a particular designated use because of:

7 (a) proposed sources that are not subject to pollution prevention or control actions required by a
8 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

9 (b) documented adverse pollution trends.

10 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for
11 point sources and load allocations for both nonpoint sources and natural background sources established at a
12 level necessary to achieve compliance with applicable surface water quality standards.

13 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,
14 industrial wastes, or other wastes.

15 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated
16 to one of its existing or future point sources.

17 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,
18 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve
19 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,
20 standards of performance, effluent standards, and operating procedures and practices to control site runoff,
21 spillage or leaks, sludge or water disposal, or drainage from material storage.

22 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or
23 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

24 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
25 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
26 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in
27 an advisory capacity as provided in 75-5-704."

28

29 **Section 110.** Section 75-25-101, MCA, is amended to read:

30 **"75-25-101. Alternative energy revolving loan account.** (1) There is a special revenue account called

1 the alternative energy revolving loan account to the credit of the department of environmental quality.

2 (2) The alternative energy revolving loan account consists of money deposited into the account from air
3 quality penalties from 75-2-401 and 75-2-413 and money from any other source. Any interest earned by the
4 account and any interest that is generated from a loan repayment must be deposited into the account and used
5 to sustain the program.

6 (3) Funds from the alternative energy revolving loan account may be used to provide loans to individuals,
7 small businesses, units of local government, units of the university system, and nonprofit organizations for the
8 purpose of building alternative energy systems, as defined in ~~45-32-102~~ 15-6-224:

9 (a) to generate energy for their own use;

10 (b) for net metering as defined in 69-8-103; and

11 (c) for capital investments by those entities for energy conservation purposes, ~~as defined in 15-32-102,~~
12 when done in conjunction with an alternative energy system.

13 (4) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years.

14 (5) For the purposes of 75-25-102 and this section, "energy conservation purpose" means one or both
15 of the following results of an investment:

16 (a) reducing the waste or dissipation of energy; or

17 (b) reducing the amount of energy required to accomplish a given quantity of work."

18

19 **Section 111.** Section 87-2-102, MCA, is amended to read:

20 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing
21 resident hunting, fishing, and trapping licenses, the following provisions apply:

22 (1) (a) A member of the regular armed forces of the United States, a member's dependent, ~~as defined~~
23 ~~in 15-30-2445,~~ who resides in the member's Montana household, or a member of the armed forces of a foreign
24 government attached to the regular armed forces of the United States is considered a resident for the purposes
25 of this chapter if:

26 (i) the member was a resident of Montana under the provisions of subsection (4) at the time the member
27 entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through ~~(4)(e)~~ (4)(d);

28 or

29 (ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana
30 for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course

1 approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a
2 hunter safety course in any state or province. The 30-day residence requirement is waived in time of war.
3 Reassignment to another state, United States territory, or country terminates Montana residency for purposes
4 of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and
5 dependents continue to physically reside in Montana and the member continues to meet the residency criteria
6 of subsections (4)(b) through ~~(4)(e)~~ (4)(d). The designation of Montana by a member of the regular armed forces
7 as a "home of record" or "home of residence" in that member's armed forces records does not determine the
8 member's residency for purposes of this section.

9 (b) A member of the regular armed forces of the United States who is otherwise considered a Montana
10 resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue
11 of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping
12 privileges in another state or country.

13 (2) A person who has physically resided in Montana as the person's principal or primary home or place
14 of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making
15 application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this
16 section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary
17 home or place of abode.

18 (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of
19 this section by physically residing in Montana as the person's principal or primary home or place of abode for not
20 less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident
21 hunting, fishing, or trapping license.

22 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to
23 be considered a resident for purposes of this section:

24 (a) the person's principal or primary home or place of abode is in Montana;

25 ~~(b) the person files Montana state income tax returns as a resident if required to file;~~

26 ~~(c)~~(b) the person licenses and titles in Montana as required by law any vehicles that the person owns
27 and operates in Montana;

28 ~~(d)~~(c) except as provided in subsection (1)(b), the person does not possess or apply for any resident
29 hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or
30 trapping privileges in another state or country; and

1 ~~(e)~~(d) if the person registers to vote, the person registers only in Montana.

2 (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who
3 would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)
4 or (3) is considered a resident for purposes of this section.

5 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within
6 Montana, considered a resident for the purpose of making application for a fishing license as long as the person
7 remains an enrollee in a Montana camp.

8 (7) A person who does not reside in Montana but who meets all of the following requirements is a
9 resident for purposes of obtaining hunting and fishing licenses:

10 (a) The person's principal employment is within this state and the income from this employment is the
11 principal source of the applicant's family income.

12 ~~—— (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
13 amount.~~

14 ~~(e)~~(b) The person has been employed within this state on a full-time basis for at least 12 consecutive
15 months immediately preceding each application.

16 ~~(d)~~(c) The person's state of residency has laws substantially similar to this subsection (7).

17 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
18 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
19 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
20 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
21 required to show proof of the parental, guardianship, or custodial relationship to the minor.

22 (9) A person is not considered a resident for the purposes of this section if the person:

23 (a) claims residence in any other state or country for any purpose; or

24 (b) is an absentee property owner paying property tax on property in Montana.

25 (10) A license agent is not considered a representative of the state for the purpose of determining a
26 license applicant's residence status.

27 (11) For the purposes of this section:

28 (a) "Dependent" means any of the following individuals over half of whose support, for the calendar year
29 in which residency is at issue, was received from the taxpayer on whom the dependent depends:

30 (i) a son or daughter of the taxpayer or a descendant of either;

- 1 (ii) a stepson or stepdaughter of the resident;
 2 (iii) a brother, sister, stepbrother, or stepsister of the resident;
 3 (iv) the father or mother of the resident or an ancestor of either;
 4 (v) a stepfather or stepmother of the resident;
 5 (vi) a son or daughter of a brother or sister of the resident;
 6 (vii) a brother or sister of the father or mother of the resident;
 7 (viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the
 8 resident;
 9 (ix) an individual who, for the calendar year in which residency is at issue, had as the individual's principal
 10 place of abode the home of the resident and was a member of the resident's household; or
 11 (x) an individual who:
 12 (A) is a descendant of a brother or sister of the father or mother of the resident;
 13 (B) for the calendar year in which residency is at issue, received institutional care required by reason
 14 of a physical or mental disability; and
 15 (C) before receiving the institutional care, was a member of the same household as the resident.
 16 (b) "Sister" and "brother" includes a brother or sister by the half blood.
 17 (c) In determining whether any of the relationships specified in this subsection (11) exist, a legally
 18 adopted child of an individual must be treated as a child of the individual by blood."

19
 20 **Section 112.** Section 87-2-105, MCA, is amended to read:
 21 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to
 22 87-2-805(4) or who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting license may
 23 not be issued to a person born after January 1, 1985, unless the person authorized to issue the license
 24 determines proof of completion of:
 25 (a) a Montana hunter safety and education course established in subsection (4) or (6);
 26 (b) a hunter safety course in any other state or province; or
 27 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate
 28 as provided in 87-2-126.
 29 (2) A hunting license may not be issued to a member of the regular armed forces of the United States
 30 or to a member of the armed forces of a foreign government attached to the armed forces of the United States

1 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to
 2 a member's dependents, as defined in ~~45-30-2115~~ 87-2-102, who reside in the member's Montana household,
 3 unless the person authorized to issue the license determines proof of completion of a hunter safety course
 4 approved by the department or a hunter safety course in any state or province.

5 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized
 6 to issue the license receives an archery license issued for a prior hunting season or determines proof of
 7 completion of a bowhunter education course from the national bowhunter education foundation or any other
 8 bowhunter education program approved by the department. Neither the department nor the license agent is
 9 required to provide records of past archery license purchases. As part of the department's bow and arrow
 10 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

11 (4) The department shall provide for a hunter safety and education course that includes instruction in
 12 the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one
 13 of its objectives the promotion of hunter safety and education. The department may designate as an instructor
 14 any person it finds to be competent to give instructions in hunter safety and education, including the handling of
 15 firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from
 16 Montana's hunter safety and education course to a person successfully completing the course.

17 (5) The department shall provide for a course of instruction from the national bowhunter education
 18 foundation or any other bowhunter education program approved by the department and for that purpose may
 19 cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling
 20 of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give
 21 bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a
 22 certificate of completion to a person successfully completing the course.

23 (6) The department may develop an adult hunter safety and education course.

24 (7) The department may adopt rules regarding how a person authorized to issue a license determines
 25 proof of completion of a required course."

26

27 **Section 113.** Section 87-5-121, MCA, is amended to read:

28 **"87-5-121. Nongame wildlife account.** (1) There is a nongame wildlife account in the state special
 29 revenue fund provided for in 17-2-102.

30 (2) All money collected under ~~15-30-2387~~ and all interest earned by the fund before being expended

1 under this section must be deposited in the account.

2 (3) Money in the account must be used by the department, upon the approval of the commission as
3 determined under 87-5-122, to provide adequate funding for:

4 (a) research and education programs on nongame wildlife in Montana, as provided for in 87-5-104; and

5 (b) any management programs for nongame wildlife approved by the legislature under 87-5-105 as
6 species or subspecies in need of management.

7 (4) The money is available to the department in the same manner as provided in 87-1-601, ~~except that~~
8 ~~money collected under 15-30-2387 may not be used:~~

9 ~~—— (a) for the purchase of any real property; or~~

10 ~~—— (b) in such a way as to interfere with the production on or management of private property."~~

11

12 **Section 114.** Section 90-4-602, MCA, is amended to read:

13 **"90-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following
14 definitions apply:

15 (1) "Board" means the board of examiners provided for in 2-15-1007.

16 (2) "Cost" includes the expenses related to planning, design, construction, and installation of energy
17 conservation improvements and any administrative expenses of the department incurred in the performance of
18 its duties under the energy conservation program.

19 (3) "Department" means the department of environmental quality provided for in 2-15-3501.

20 (4) "Energy conservation program" means a program for the financing, acquisition, construction, and
21 installation of alternative energy systems, as defined in ~~15-32-102~~ 15-6-224, or equipment, systems, and
22 improvements in state-owned buildings, structures, and facilities that save energy or water.

23 (5) "Energy conservation program bonds" includes all series of bonds issued to finance any portion of
24 the energy conservation program.

25 (6) "Energy cost savings" means the savings in utility costs to a state agency as a result of an energy
26 conservation program.

27 (7) "Participating state agency" means, for a state-owned building, structure, or facility, the state agency
28 that pays for the utilities for that building.

29 (8) "State agency" means:

30 (a) each executive, legislative, or judicial branch department, office, or agency;

- 1 (b) the university system; and
2 (c) a community college district."
3

4 **Section 115.** Section 90-4-1005, MCA, is amended to read:

5 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
6 development and demonstration grant program within the department of environmental quality to fund technology
7 development and demonstration:

8 (a) advancing the development and utilization of energy storage systems, including but not limited to
9 mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later
10 date for use;

11 (b) developing storage systems specifically designed to store energy generated from eligible renewable
12 resources as defined in 69-3-2003, including but not limited to compressed air energy storage systems;

13 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage
14 systems beyond the current level of technology; and

15 (d) advancing the development of alternative energy systems as defined in ~~15-32-402~~ 15-6-224.

16 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university
17 system, agricultural research centers, or private entities or research centers.

18 (3) Money appropriated to the department of environmental quality for the purpose of the energy
19 development and demonstration grant program may be used by the department for providing individual grants
20 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

21 (4) The grant application may include:

22 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of
23 advancing energy storage or alternative energy systems;

24 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the project;
25 and

26 (c) a reporting process to ensure progress toward project goals."
27

28 **Section 116.** Section 90-4-1202, MCA, is amended to read:

29 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
30 apply:

1 (1) "Ancillary services" has the meaning provided in 69-3-2003.

2 (2) "Bond" means bond, note, or other obligation.

3 (3) "Clean renewable energy bonds" means one or more bonds issued by a governmental body pursuant
4 to section 54 of the Internal Revenue Code, 26 U.S.C. 54, and this part.

5 (4) "Commission" means the public service commission provided for in 69-1-102.

6 (5) "Governing authority" means a council, board, or other body governing the affairs of the governmental
7 body.

8 (6) "Governmental body" means a city, town, county, school district, consolidated city-county, Indian
9 tribal government, or any other political subdivision of the state, however organized.

10 (7) "Intermittent generation resource" means a generator that operates on a limited and irregular basis
11 due to the inconsistent nature of its fuel supply, which is primarily wind or solar power.

12 (8) "Internal Revenue Code" has the meaning provided in ~~15-30-2101~~ 15-1-101.

13 (9) "Project" means:

14 (a) a facility qualifying as a "qualified project" within the meaning of section 54(d)(2) of the Internal
15 Revenue Code, 26 U.S.C. 54(d)(2);

16 (b) a community renewable energy project as defined in 69-3-2003(4)(a); or

17 (c) an alternative renewable energy source as defined in 15-6-225."
18

19 **NEW SECTION. Section 117. Repealer.** The following sections of the Montana Code Annotated are
20 repealed:

21 15-1-109. Prohibition on tax return preparation services -- filing electronic returns.

22 15-1-230. Report on income tax credit to committee.

23 15-30-2101. Definitions.

24 15-30-2102. Construction of net income.

25 15-30-2103. Rate of tax.

26 15-30-2104. Tax on nonresident.

27 15-30-2105. Tax on lump-sum distributions.

28 15-30-2110. Adjusted gross income.

29 15-30-2111. Nonresident and temporary resident taxpayers -- adjusted gross income.

30 15-30-2112. Change from nonresident to resident or vice versa.

- 1 15-30-2113. Determination of marital status.
- 2 15-30-2114. Exemptions -- inflation adjustment.
- 3 15-30-2115. General definition of dependent.
- 4 15-30-2116. Additional exemption for dependent child with disability -- physician's verification.
- 5 15-30-2117. Military salary, veterans' bonus, or death benefit -- exemptions.
- 6 15-30-2118. Taxable liability on termination of independent liability fund.
- 7 15-30-2119. Net operating loss -- computation.
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- 11 15-30-2141. Independent liability fund -- deductibility.
- 12 15-30-2142. Income tax deduction for contribution to veterans' programs.
- 13 15-30-2143. Deduction for contributions to child abuse and neglect prevention program.
- 14 15-30-2144. Deposit of child abuse and neglect prevention program deductible contributions.
- 15 15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.
- 16 15-30-2152. Computation of income of estates or trusts -- exemption.
- 17 15-30-2153. Determination of tax of estates and trusts.
- 18 15-30-2154. Estates and trusts tax remedies.
- 19 15-30-2301. Capital gains credit.
- 20 15-30-2302. Credit allowed resident taxpayers for income taxes imposed by foreign states or
21 countries.
- 22 15-30-2319. Credit for energy-conserving investments.
- 23 15-30-2320. Credit for alternative fuel motor vehicle conversion.
- 24 15-30-2326. Credit for contributions to university or college foundations and endowment funds.
- 25 15-30-2327. Qualified endowments credit -- definitions -- rules.
- 26 15-30-2328. Credit for contributions to qualified endowment -- recapture of credit -- deduction
27 included as income.
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- 29 15-30-2334. Credit for providing supplemental funding to public schools -- innovative educational
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2 organization.
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4 residence -- rules.
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- 12 15-30-2358. Qualified research tax credit.
- 13 15-30-2364. Adoption tax credit -- limitations.
- 14 15-30-2365. Credit for day-care facilities.
- 15 15-30-2366. Credit for expense of caring for certain elderly family members.
- 16 15-30-2367. Tax credit for providing disability insurance for employees.
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18 pass-through entities.
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- 13 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.
- 14 15-33-101. Short title.
- 15 15-33-102. Purpose.
- 16 15-33-103. Definition.
- 17 15-33-104. Reporting -- recordkeeping by the department.
- 18 15-33-105. Rulemaking authority.
- 19 15-33-106. Capital gains -- dividends exempted.
- 20 15-50-101. Definitions.
- 21 15-50-205. Tax imposed on gross receipts from public contracts.
- 22 15-50-206. Withholding license fee from payments -- refunds.
- 23 15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.
- 24 15-50-301. Rules for contractor's return.
- 25 15-50-304. Statute of limitations.
- 26 15-50-307. Inspection of books of contractor.
- 27 15-50-308. Estimation of tax upon failure to file statement or pay tax -- penalty and interest -- notice.
- 28 15-50-309. Penalty and interest for delinquency -- waiver.
- 29 15-50-310. Warrant for distraint.
- 30 15-50-311. Disposal of license taxes.

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| 1 | 15-61-101. | Short title. |
| 2 | 15-61-102. | Definitions. |
| 3 | 15-61-201. | Establishment of account. |
| 4 | 15-61-202. | Tax exemption -- conditions. |
| 5 | 15-61-203. | Withdrawal of funds from account for purposes other than medical expenses and |
| 6 | | long-term care. |
| 7 | 15-61-204. | Administration of account. |
| 8 | 15-61-205. | False claims prohibited -- penalty. |
| 9 | 15-62-101. | Short title. |
| 10 | 15-62-102. | Purpose. |
| 11 | 15-62-103. | Definitions. |
| 12 | 15-62-201. | Program requirements -- application -- establishment of account -- qualified and |
| 13 | | nonqualified withdrawal -- penalties. |
| 14 | 15-62-202. | Changes in designated beneficiary. |
| 15 | 15-62-203. | Selection of financial institution as program manager -- contract -- termination. |
| 16 | 15-62-205. | Scholarships and financial aid provisions -- exceptions. |
| 17 | 15-62-206. | Limitations. |
| 18 | 15-62-207. | Deductions for contributions. |
| 19 | 15-62-208. | Tax on certain withdrawals of deductible contributions. |
| 20 | 15-62-209. | Access to records. |
| 21 | 15-62-301. | Family education savings trust. |
| 22 | 15-62-302. | Temporary savings account program. |
| 23 | 15-63-101. | Short title. |
| 24 | 15-63-102. | Definitions. |
| 25 | 15-63-201. | Establishment of account. |
| 26 | 15-63-202. | Tax exemption -- conditions. |
| 27 | 15-63-203. | Withdrawal of funds from account for purposes other than eligible costs for first-time |
| 28 | | home purchase. |
| 29 | 15-63-204. | Administration of account. |
| 30 | 15-63-205. | False claims prohibited. |

- 1 15-68-212. Nontaxability -- nonprofits.
- 2 20-9-360. State equalization aid levy.
- 3 20-9-901. Purpose.
- 4 20-9-902. Definitions.
- 5 20-9-903. Establishment of geographic regions and large districts -- innovative educational
6 program.
- 7 20-9-904. Distribution of supplemental revenue to public schools -- innovative educational
8 program.
- 9 20-9-905. Educational improvement account -- revenue allocated -- appropriations from account.
- 10 20-9-906. Rulemaking.
- 11 20-25-901. Family education savings program oversight committee -- membership -- powers and
12 duties.
- 13 20-25-902. Board -- powers and duties.
- 14 33-17-407. Nonresident insurance producer to pay taxes -- annual report required.
- 15 50-51-114. Emergency lodging program -- definitions.
- 16 50-51-115. Emergency lodging -- liability for damages.
- 17 53-25-117. Deductions for contributions.
- 18 53-25-118. Tax on certain withdrawals of deductible contributions.
- 19 69-3-713. Prohibition against utility claiming conservation tax credit.
- 20 87-1-294. Unlocking public lands program -- purpose -- commission rulemaking authority.

21

22 **NEW SECTION. Section 118. Codification instruction.** (1) [Sections 1 through 7] are intended to be
23 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

24 (2) [Sections 8 through 18] are intended to be codified as an integral part of Title 15, chapter 68, and the
25 provisions of Title 15, chapter 68, apply to [sections 8 through 18].

26

27 **NEW SECTION. Section 119. Severability.** If a part of [this act] is invalid, all valid parts that are
28 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
29 the part remains in effect in all valid applications that are severable from the invalid applications.

30

1 NEW SECTION. **Section 120. Effective date.** [This act] is effective January 1, 2018.

2

3 NEW SECTION. **Section 121. Applicability.** [This act] applies to tax years beginning after December
4 31, 2017.

5

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