

1 SENATE BILL NO. 205

2 INTRODUCED BY B. HOVEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NAME OF THE "STATE TAX APPEAL BOARD";
5 CHANGING THE NAME OF THE STATE TAX APPEAL BOARD TO THE MONTANA TAX APPEAL BOARD;
6 AND AMENDING SECTIONS 2-6-1007, 2-15-1015, 5-5-227, 5-5-228, 10-4-212, 15-1-101, 15-1-212, 15-1-213,
7 15-1-222, 15-1-303, 15-1-402, 15-2-101, 15-2-102, 15-2-103, 15-2-104, 15-2-106, 15-2-201, 15-2-301, 15-2-
8 302, 15-2-303, 15-2-304, 15-2-305, 15-2-306, 15-6-135, 15-6-158, 15-6-231, 15-7-102, 15-7-139, 15-8-112, 15-
9 8-113, 15-8-115, 15-8-202, 15-15-101, 15-15-103, 15-15-104, 15-15-201, 15-16-603, 15-23-102, 15-30-2607,
10 15-30-2608, 15-30-3113, 15-68-405, 15-68-805, 15-70-111, 16-11-149, 53-19-319, AND 61-11-510, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 2-6-1007, MCA, is amended to read:

15 **"2-6-1007. Special fees allowable for certain information.** (1) In addition to the fee allowed under
16 2-6-1006, the department of revenue may charge an additional fee as reimbursement for the cost of developing
17 and maintaining the property valuation and assessment system database from which the information is
18 requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting
19 the database or any part of the database from any department property valuation and assessment system. The
20 fee may not be charged to the governor's office of budget and program planning, the ~~state~~-Montana tax appeal
21 board, or any legislative body or its members or staff.

22 (2) The department of revenue may not charge a fee for information provided from any department
23 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
24 governmental functions or to an individual taxpayer concerning the taxpayer's property.

25 (3) All fees received by the department of revenue under 2-6-1006 and this section must be deposited
26 in the property value improvement fund as provided in 15-1-521.

27 (4) In accordance with the fees allowed under 2-6-1006, the Montana historical society may charge
28 fees as approved by its board of trustees for copies of materials contained in its collections, based on

1 documentable curatorial duties as set forth in 22-3-101."

2

3 **Section 2.** Section 2-15-1015, MCA, is amended to read:

4 **"2-15-1015. ~~State~~ Montana tax appeal board.** There is a ~~state~~ Montana tax appeal board as
5 provided in Title 15, chapter 2."

6

7 **Section 3.** Section 5-5-227, MCA, is amended to read:

8 **"5-5-227. Revenue interim committee -- powers and duties -- revenue estimating and use of**
9 **estimates.** (1) The revenue interim committee has administrative rule review, draft legislation review, program
10 evaluation, and monitoring functions for the ~~state~~ Montana tax appeal board established in 2-15-1015 and for
11 the department of revenue and the entities attached to the department for administrative purposes, except the
12 division of the department that administers the Montana Alcoholic Beverage Code.

13 (2) (a) The committee must have prepared by December 1 for introduction during each regular
14 session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue
15 projected to be available for legislative appropriation.

16 (b) The committee may prepare for introduction during a special session of the legislature in which a
17 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The
18 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

19 (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
20 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the
21 legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
22 responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

23 (4) The legislative services division shall provide staff assistance to the committee. The committee
24 may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
25 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of
26 the state.

27 (5) The committee shall review tax credits [scheduled to expire] as provided in 15-30-2303."

28

1 **Section 4.** Section 5-5-228, MCA, is amended to read:

2 **"5-5-228. State administration and veterans' affairs interim committee.** (1) The state
3 administration and veterans' affairs interim committee has administrative rule review, draft legislation review,
4 program evaluation, and monitoring functions for the public employee retirement plans and for the following
5 executive branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for
6 administrative purposes:

7 (a) department of administration, except:

8 (i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors
9 of the state compensation insurance fund established in 2-15-1019;

10 (ii) the ~~state~~ Montana tax appeal board established in 2-15-1015;

11 (iii) the division of banking and financial institutions; and

12 (iv) the office of state public defender;

13 (b) department of military affairs; and

14 (c) office of the secretary of state.

15 (2) The committee shall:

16 (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems,
17 based on reports from the teachers' retirement board, the public employees' retirement board, and the board of
18 investments, and study and evaluate the equity and benefit structure of the state's public employee retirement
19 systems;

20 (b) establish principles of sound fiscal and public policy as guidelines;

21 (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy
22 principles; and

23 (d) publish, for legislators' use, information on the public employee retirement systems that the
24 committee considers will be valuable to legislators when considering retirement legislation.

25 (3) The committee may:

26 (a) specify the date by which retirement board proposals affecting a retirement system must be
27 submitted to the committee for the review pursuant to subsection (1); and

28 (b) request personnel from state agencies, including boards, political subdivisions, and the state

1 public employee retirement systems, to furnish any information and render any assistance that the committee
2 may request."

3

4 **Section 5.** Section 10-4-212, MCA, is amended to read:

5 **"10-4-212. Provider considered a taxpayer under provisions for fee.** Unless the context requires
6 otherwise, the provisions of Title 15 referring to the audit and examination of reports and returns, determination
7 of deficiency assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants,
8 conferences, appeals to the department of revenue, appeals to the ~~state~~Montana tax appeal board, and
9 procedures relating thereto apply to this part as if the fee were a tax imposed upon or measured by net income.
10 The provisions apply to the subscriber liable for the fee and to the provider required to collect the fee. Any
11 amount collected and required to be remitted to the department of revenue is considered a tax upon the
12 provider required to collect it, and that provider is considered a taxpayer."

13

14 **Section 6.** Section 15-1-101, MCA, is amended to read:

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

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

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

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

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

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

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

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

- 1 (A) agricultural lands;
- 2 (B) timberlands and forest lands;
- 3 (C) single-family residences and ancillary improvements and improvements necessary to the function
4 of a bona fide farm, ranch, or stock operation;
- 5 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
6 distributor or dealer as stock in trade; and
- 7 (E) all property described in 15-6-135.
- 8 (e) The term "comparable property" means property that:
- 9 (i) has similar use, function, and utility;
- 10 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors;
- 11 and
- 12 (iii) has the potential of a similar highest and best use.
- 13 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.
- 14 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
15 provided for in 2-15-1301.
- 16 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-
17 2501.
- 18 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
19 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
20 found in any coal formation.
- 21 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated
22 upon, erected upon, or affixed to land. When the department determines that the permanency of location of a
23 mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured
24 home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home,
25 or housetrailer may be determined to be permanently located only when it is attached to a foundation that
26 cannot feasibly be relocated and only when the wheels are removed.
- 27 (j) "Industrial property" for purposes of this section includes all land used for industrial purposes,
28 improvements, and buildings used to house the industrial process and all storage facilities. Under this section,

1 industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

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

6 (l) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,
7 bison, ostriches, rheas, emus, and domestic ungulates.

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

11 (ii) A manufactured home does not include a mobile home, as defined in subsection (1)(o), or a mobile
12 home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards
13 went into effect on June 15, 1976.

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

15 (o) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or "trailer
16 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
17 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45
18 feet in length used as a principal residence.

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

22 (q) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
23 domestication to produce food or feathers.

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

28 (s) The term "real estate" includes:

- 1 (i) the possession of, claim to, ownership of, or right to the possession of land;
- 2 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and
3 Title 15, chapter 23, part 8;
- 4 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United
5 States; and
- 6 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.
- 7 (t) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking,
8 and winter sports, including but not limited to skiing, skating, and snowmobiling.
- 9 (u) "Research and development firm" means an entity incorporated under the laws of this state or a
10 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
11 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
12 and technical nature into practical application for experimental and demonstration purposes, including the
13 experimental production and testing of models, devices, equipment, materials, and processes.
- 14 (v) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is
15 listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
16 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.
- 17 (w) The term "taxable value" means the market value multiplied by the classification tax rate as
18 provided for in Title 15, chapter 6, part 1.
- 19 (x) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed
20 by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of
21 local fees and assessments.
- 22 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
23 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
24 organized body authorized by law to establish tax levies for the purpose of raising public revenue.
- 25 (3) The term "state board", "Montana board", or "board" when used without other qualification means
26 the ~~state~~ Montana tax appeal board."
27

28 **Section 7.** Section 15-1-212, MCA, is amended to read:

1 **"15-1-212. Mediation of valuation disputes -- centrally assessed and industrial properties. (1)**

2 For appeals relating to the assessed value of centrally assessed property or industrial property that is assessed
3 annually by the department, the objecting taxpayer may require that all issues raised in the complaint be the
4 subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be
5 accompanied by a fee of \$100, payable to the department for deposit in the general fund.

6 (2) If the taxpayer requests mediation, which must be granted, the request is to be included in the
7 complaint filed with the ~~state-Montana~~ tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal,
8 upon separate motion to the ~~state-Montana~~ tax appeal board. If mediation is requested by the taxpayer, the
9 mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in
10 the complaint, to be scheduled by the ~~state-Montana~~ tax appeal board.

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

17 (4) Within 45 days after the request for mediation, the mediator must have been selected by the
18 parties and the parties must have scheduled a mediation proceeding unless waived by both parties. A
19 mediation proceeding may not proceed past 120 days without the consent of the objecting taxpayer and the
20 department. Each party is responsible for that party's mediation costs and shall jointly share the costs of the
21 mediator.

22 (5) A mediator is prohibited from conveying information from one party to another during the
23 mediation unless the source party specifically allows the conveyance of the information.

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

26 (7) If the mediation is unsuccessful, the parties shall proceed to a contested case hearing as
27 scheduled by the ~~state-Montana~~ tax appeal board."
28

1 **Section 8.** Section 15-1-213, MCA, is amended to read:

2 "**15-1-213. Mediation of valuation disputes -- other property taxpayers.** (1) After a final decision of
3 the county tax appeal board relating to the assessed value of property other than centrally assessed property or
4 industrial property valued annually by the department, the objecting taxpayer may require that the assessed
5 value be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation
6 must be accompanied by a fee of \$100, payable to the department for deposit in the general fund.

7 (2) If the taxpayer requests mediation, which must be granted, the request is to be included in the
8 complaint filed with the ~~state-Montana~~ tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal,
9 upon separate motion to the ~~state-Montana~~ tax appeal board. If mediation is requested by the taxpayer, the
10 mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in
11 the complaint, to be scheduled by the ~~state-Montana~~ tax appeal board.

12 (3) The mediation proceeding must be conducted according to 15-1-212(2) through (6)."
13

14 **Section 9.** Section 15-1-222, MCA, is amended to read:

15 "**15-1-222. Taxpayer bill of rights.** The department of revenue shall in the course of performing its
16 duties in the administration and collection of the state's taxes ensure that:

17 (1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any
18 other representatives of the department;

19 (2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the
20 taxpayer's interests before the department or any tax appeal board. The taxpayer has a right to obtain a
21 representative at any time, except that the selection of a representative may not be used to unreasonably delay
22 a field audit that is in progress. The representative must have written authorization from the taxpayer to receive
23 from the department confidential information concerning the taxpayer. The department shall provide copies to
24 the authorized representative of all information sent to the taxpayer and shall notify the authorized
25 representative concerning contacts with the taxpayer.

26 (3) except as provided in subsection (5), the taxpayer has the right to be treated by the department in
27 a similar manner as all similarly situated taxpayers regarding the administration and collection of taxes,
28 imposition of penalties and interest, and available taxpayer remedies unless there is a rational basis for the

1 department to distinguish them;

2 (4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to
3 the waiver of penalties and interest, but not taxes, when the taxpayer has relied on written advice provided to
4 the taxpayer by an employee of the department.

5 (5) at the discretion of the department, upon consideration of all facts relevant to the specific
6 taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis.
7 This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable
8 criteria.

9 (6) the taxpayer has the right to a complete and accurate written description of the basis for any
10 additional tax assessed by the department;

11 (7) the taxpayer has the right to a review by management level employees of the department for any
12 additional taxes assessed by the department;

13 (8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of
14 additional tax assessments;

15 (9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have
16 the ~~state~~ Montana tax appeal board or a court, or both, review any final decision of the department assessing
17 an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court
18 costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711.

19 (10) the taxpayer has the right to expect that the department will adhere to the same tax appeal
20 deadlines as are required of the taxpayer unless otherwise provided by law;

21 (11) the taxpayer has the right to a full explanation of the department's authority to collect delinquent
22 taxes, including the procedures and notices that are required to protect the taxpayer;

23 (12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in
24 Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

25 (13) the taxpayer has the right to the immediate release of any lien the department has placed on
26 property when the tax is paid or when the lien is the result of an error by the department;

27 (14) the taxpayer has the right to assistance from the department in complying with state and local tax
28 laws that the department administers; and

1 (15) the taxpayer has the right to be guaranteed that an employee of the department is not paid,
2 promoted, or in any way rewarded on the basis of assessments or collections from taxpayers."

3

4 **Section 10.** Section 15-1-303, MCA, is amended to read:

5 **"15-1-303. Penalty for refusal to furnish information.** (1) If a person refuses to allow inspection of
6 any books or records when requested by the department or refuses or neglects to furnish any information called
7 for by the department in the performance of its official duties relating to the assessment and taxation of
8 property, the department shall make a determination and assessment of the property that in its judgment
9 appears to be just and equitable and may add to the assessment an amount not to exceed 20% of the
10 assessment as a penalty for the refusal or neglect. The department shall immediately notify the person
11 assessed of its action, either by mail or by personal service of the notice.

12 (2) Upon receiving an assessment made pursuant to subsection (1), the taxpayer has the following
13 remedies:

14 (a) Within 30 days after receipt of the assessment, the taxpayer may request an informal conference
15 with the department. At the conference, the taxpayer may present evidence in mitigation or extenuation of the
16 failure to supply the information requested by the department. Within 10 days after the conference, the
17 department shall notify the taxpayer by mail whether the assessment will be modified. The department may
18 modify the penalty if the taxpayer presents sufficient evidence in mitigation or extenuation of the failure to
19 supply the information sought by the department and if it finds that the taxpayer did not willfully refuse to supply
20 the information.

21 (b) If the taxpayer is aggrieved as a result of the informal conference, the taxpayer may appeal to the
22 county tax appeal board within 30 days after receipt of the decision of the department. The county tax appeal
23 board has the authority to modify the:

24 (i) assessment only if it finds that the assessment exceeds 100% of the value of the property specified
25 in 15-8-111; and

26 (ii) penalty if the taxpayer presents by a preponderance of the evidence facts in mitigation or
27 extenuation of the failure to supply the information that the department sought.

28 (c) If the county tax appeal board modifies a penalty pursuant to subsection (2)(b)(ii), it may not

1 reduce the penalty to less than 20% of the assessment or, if the assessment is modified pursuant to subsection
2 (2)(b)(i), to less than 20% of the modified assessment.

3 (3) Either party aggrieved as a result of the decision of the county tax appeal board may appeal to the
4 ~~state-Montana~~ tax appeal board within 30 calendar days after receipt of the county tax appeal board's decision.
5 When deciding an appeal brought under this subsection, the ~~state-Montana~~ tax appeal board shall follow the
6 provisions of subsections (2)(b) and (2)(c).

7 (4) Either party aggrieved as a result of the decision of the ~~state-Montana~~ tax appeal board may seek
8 judicial review pursuant to 15-2-303."

9

10 **Section 11.** Section 15-1-402, MCA, is amended to read:

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

14 (b) The protested payment must:

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

16 (ii) specify the grounds of protest; and

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

20 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to
21 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested
22 payment for each county in which a protested payment was made.

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

28 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion

1 considered unlawful by the ~~state-Montana~~ tax appeal board need not be paid and an action or suit need not be
2 commenced to recover the subsequent installment. The determination of the action or suit commenced to
3 recover the first installment portion paid under protest determines the right of the party paying the subsequent
4 installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a
5 subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was
6 due.

7 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a
8 county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special
9 fund to be designated as a protest fund and must be retained in the protest fund until the final determination of
10 any action or suit to recover the taxes and fees unless they are released at the request of the county,
11 municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the
12 investment of the money of this fund in the state unified investment program or in any manner provided in Title
13 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under
14 protest directly to the state.

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

20 (ii) The department shall deposit 50% of that portion of the funds levied for the university system
21 pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other
22 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state
23 special revenue fund.

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

27 (iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be
28 deposited in the state general fund, and the other 50% must be deposited in a school district property tax

1 protest state special revenue fund.

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

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

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

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

26 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
27 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
28 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to

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

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

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

13 (d) (i) (A) If, after a final determination by the ~~state-Montana~~ tax appeal board or a court or after
14 settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an
15 industrial property that is annually assessed by the department is less than 75% of the department's original
16 assessed value, the governing body may demand that the state refund from the general fund the protested
17 taxes equivalent to the difference between the final determined assessed value and 75% of the original
18 assessed value.

19 (B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to
20 waive its right to its portion of protested taxes for that specific year, the department shall refund from the school
21 district property tax protest state special revenue fund the protested portions of property taxes and interest to a
22 taxpayer.

23 (C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer
24 protests the classification of the property.

25 (ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
26 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
27 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
28 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction

1 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
2 treasurer as provided in subsection (6)(b).

3 (iii) For an adverse protest action against the state for centrally assessed property, the department
4 shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes
5 and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded
6 for an adverse protested action from the centrally assessed property tax state special revenue fund may not
7 exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections
8 (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed
9 property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is
10 entitled and for which the state is responsible, the department shall pay the remainder of the refund
11 proportionally from the state general fund and from money deposited in the state special revenue fund levied
12 pursuant to 15-10-109.

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

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

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

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

23 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of
24 deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a
25 county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The
26 bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the
27 bonds.

28 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is

1 not owed."

2

3 **Section 12.** Section 15-2-101, MCA, is amended to read:

4 **"15-2-101. ~~State Montana~~ tax appeal board -- appointment of members -- term of office.** There is
5 a ~~state-Montana~~ tax appeal board composed of three members appointed by the governor for staggered terms
6 with the advice and consent of the senate. However, a member appointed may serve until the next regular
7 session of the legislature without the advice and consent of the senate. Each member shall hold office for a
8 term of 6 years and until a successor shall be appointed and qualified. A vacancy must be filled by the governor
9 subject to confirmation by the senate during the next legislative session. Succeeding appointments, except
10 when made to fill a vacancy, must be made on or before January 31 during the session of the legislature
11 preceding the commencement of the term for which the appointment is made."
12

12

13 **Section 13.** Section 15-2-102, MCA, is amended to read:

14 **"15-2-102. Qualification and compensation.** (1) To be appointed a member of the ~~state-Montana~~
15 tax appeal board, a person ~~shall~~ must possess knowledge of the subject of taxation and skill in matters relating
16 to taxation. A member may not hold any other state office or any office under the government of the United
17 States or under the government of any other state. The person shall devote the entire time to the duties of the
18 office and may not hold any other position of trust or profit or engage in any occupation or business interfering
19 or inconsistent with the person's duties. The ~~state-Montana~~ tax appeal board is attached to the department of
20 administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own
21 personnel, and 2-15-121(2)(d) does not apply.

22 (2) ~~State Montana~~ tax appeal board members must be paid a salary within the occupational wage
23 range for the occupation designated by the department of administration as provided in subsection (3). ~~State~~
24 Montana tax appeal board members must receive pay and pay adjustments consistent with those required by
25 the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as
26 provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel
27 expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

28 (3) The department of administration shall determine the appropriate occupation for the ~~state~~

1 Montana tax appeal board members in the same manner that it determines the occupation for employees in
 2 state government pursuant to Title 2, chapter 18.

3 (4) The governor shall set the salary of the ~~state~~ Montana tax appeal board members within the
 4 occupational wage range established by the department of administration."

5

6 **Section 14.** Section 15-2-103, MCA, is amended to read:

7 **"15-2-103. Organization, quorum, sessions.** The members of the ~~state~~ Montana tax appeal board
 8 shall, without delay, meet at the state capital, and the governor shall designate one of their members as
 9 presiding officer. A majority of the board constitutes a quorum. The board is in continuous session and must be
 10 open for the transaction of business every day except Saturdays, Sundays, and legal holidays; and the
 11 sessions of the board must stand and be considered to be adjourned from day to day without formal entry upon
 12 its records. The board may hold sessions or conduct hearings and investigations at other places than the
 13 capital when considered necessary to facilitate the performance of its duties or to accommodate parties in
 14 interest."

15

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

17 **"15-2-104. Employees -- expenses -- minutes -- rules.** The ~~state~~ Montana tax appeal board may
 18 appoint a secretary and employ other persons as experts, assistants, clerks, and stenographers as may be
 19 necessary to perform the duties that may be required of it. The total expenses of the board may not exceed, in
 20 the aggregate during any fiscal year, the amount appropriated for the board for all purposes by the legislature
 21 for that year. The secretary shall keep full and correct minutes of the transactions and proceedings of the
 22 board and may administer oaths and perform other duties as may be required. The board may adopt rules for
 23 the orderly and methodical performance of its duties as a tax appeal board and for conducting hearings and
 24 other proceedings before it."

25

26 **Section 16.** Section 15-2-106, MCA, is amended to read:

27 **"15-2-106. Seal.** The ~~state~~ Montana tax appeal board shall have a seal and ~~such~~ the seal shall must
 28 have the following words engraved ~~thereon~~ on it, "Tax Appeal Board of the State of Montana". The board shall

1 authenticate all of its orders, records, and proceedings with ~~such~~ the seal, and the courts of this state shall take
 2 judicial notice of ~~such~~ the seal."

3

4 **Section 17.** Section 15-2-201, MCA, is amended to read:

5 **"15-2-201. Powers and duties.** (1) It is the duty of the ~~state~~ Montana tax appeal board to:

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

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

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

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

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

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

27

28 **Section 18.** Section 15-2-301, MCA, is amended to read:

1 **"15-2-301. Appeal of county tax appeal board decisions.** (1) (a) The county tax appeal board shall
2 mail a copy of its decision to the taxpayer and to the property assessment division of the department of
3 revenue.

4 (b) If the appearance provisions of 15-15-103 have been complied with, a person or the department
5 on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may
6 appeal to the ~~state-Montana~~ tax appeal board by filing with the ~~state-Montana~~ board a notice of appeal within 30
7 calendar days after the receipt of the decision of the county board. The notice must specify the action
8 complained of and the reasons assigned for the complaint.

9 (c) Notice of acceptance of an appeal must be given to the county board by the ~~state-Montana~~ board.

10 (d) The ~~state-Montana~~ board shall set the appeal for hearing either in its office in the capital or at the
11 county seat as the ~~state-Montana~~ board considers advisable to facilitate the performance of its duties or to
12 accommodate parties in interest.

13 (e) The ~~state-Montana~~ board shall give to the appellant and to the respondent at least 15 calendar
14 days' notice of the time and place of the hearing.

15 (2) (a) At the time of giving notice of acceptance of an appeal, the ~~state-Montana~~ board may require
16 the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in
17 connection with its proceedings.

18 (b) The ~~state-Montana~~ board may, in its discretion, determine the appeal on the record if all parties
19 receive a copy of the transcript and are permitted to submit additional sworn statements, or the ~~state-Montana~~
20 board may hear further testimony.

21 (c) For industrial property that is assessed annually by the department, the ~~state~~ Montana board's
22 review must be de novo and conducted in accordance with the contested case provisions of the Montana
23 Administrative Procedure Act.

24 (d) For the purpose of expediting its work, the ~~state-Montana~~ board may refer any appeal to one of its
25 members or to a designated hearings officer. The board member or hearings officer may exercise all the
26 powers of the ~~state-Montana~~ board in conducting a hearing and shall, as soon as possible after the hearing,
27 report the proceedings, together with a transcript or a tape recording of the hearing, to the ~~state-Montana~~ board.
28 The ~~state-Montana~~ board shall determine the appeal on the record.

1 (3) The ~~state-Montana~~ tax appeal board ~~must~~ shall consider an independent appraisal provided by the
 2 taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal
 3 was conducted within 6 months of the valuation date. If the ~~state-Montana~~ board does not use the appraisal
 4 provided by the taxpayer in conducting the appeal, the ~~state-Montana~~ board ~~must~~ shall provide to the taxpayer
 5 the reason for not using the appraisal.

6 (4) In every hearing at a county seat throughout the state, the ~~state-Montana~~ board or the member or
 7 hearings officer designated to conduct a hearing may employ a competent person to electronically record the
 8 testimony received. The cost of electronically recording testimony may be paid out of the general appropriation
 9 for the board.

10 (5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any
 11 appeal under this section, the ~~state-Montana~~ board is not bound by common law and statutory rules of evidence
 12 or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict
 13 with the Montana Administrative Procedure Act, this section supersedes that act. The ~~state-Montana~~ board may
 14 not amend or repeal any administrative rule of the department. The ~~state-Montana~~ board shall give an
 15 administrative rule full effect unless the ~~state-Montana~~ board finds a rule arbitrary, capricious, or otherwise
 16 unlawful.

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

21 (7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from
 22 implementing an order to change the valuation of property."
 23

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

25 **"15-2-302. Direct appeal from department decision to ~~state-Montana~~ tax appeal board --**
 26 **hearing.** (1) (a) An appeal of a final decision of the department of revenue involving one of the matters
 27 provided for in subsection (1)(b) must be made to the ~~state-Montana~~ tax appeal board.

28 (b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final

1 decisions involving:

- 2 (i) property centrally assessed under chapter 23;
3 (ii) classification of property as new industrial property;
4 (iii) any other tax, other than the property tax, imposed under this title; or
5 (iv) any other matter in which the appeal is provided by law.

6 (2) A person may appeal the department's annual assessment of an industrial property to the ~~state~~
7 Montana board as provided in this section or to the county tax appeal board for the county in which the property
8 is located as provided in Title 15, chapter 15, part 1.

9 (3) The appeal is made by filing a complaint with the ~~state~~Montana board within 30 days following
10 receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the
11 nature of relief demanded. The ~~state~~Montana board shall immediately transmit a copy of the complaint to the
12 department.

13 (4) The department shall file with the ~~state~~Montana board an answer within 30 days following filing of
14 a complaint.

15 (5) The ~~state~~Montana board shall conduct the appeal in accordance with the contested case
16 provisions of the Montana Administrative Procedure Act. Parties to an appeal shall attempt to attain the
17 objectives of discovery through informal consultation or communication before utilizing formal discovery
18 procedures. Formal discovery procedures may not be utilized by a taxpayer or the department unless
19 reasonable informal efforts to obtain the needed information have not been successful.

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

25 **Section 20.** Section 15-2-303, MCA, is amended to read:

26 **"15-2-303. Judicial review.** (1) Any party to an appeal before the ~~state~~Montana tax appeal board
27 who is aggrieved by a final decision is entitled to judicial review under this part.

28 (2) Proceedings for review must be instituted by filing a petition in district court in the county in which

1 the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court
2 of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final
3 decision of the ~~state~~ Montana tax appeal board or, if a rehearing is requested, within 60 days after service of
4 the final decision. Copies of the petition must be promptly served on all parties of record. The department of
5 revenue shall promptly notify the ~~state~~ Montana tax appeal board, in writing, of any judicial review, but failure to
6 do so has no effect on the judicial review. The department of revenue shall, on request, submit to the ~~state~~
7 Montana tax appeal board a copy of all pleadings and documents.

8 (3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the
9 appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property
10 or some portion of it is located, but failure to do so has no effect on the judicial review.

11 (4) Proceedings for review of a decision by the ~~state~~ Montana tax appeal board by a company under
12 the jurisdiction of the public service commission must be instituted in the district court of the first judicial district.

13 (5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit
14 additional evidence to be introduced."
15

16 **Section 21.** Section 15-2-304, MCA, is amended to read:

17 **"15-2-304. Petition for interlocutory adjudication.** (1) (a) Either party, within 30 days of the filing of
18 an answer to an appeal before the ~~state~~ Montana tax appeal board, may file a petition for an interlocutory
19 adjudication under 15-2-305. The petition may be filed with the district court:

20 (i) in the first judicial district;

21 (ii) in the county in which the taxable property is located; or

22 (iii) in cases not involving property taxes, in the county where the taxpayer resides or has the
23 taxpayer's principal place of business in the state.

24 (b) The petition may raise any question involving procedure, the admissibility of evidence, or a
25 substantive question of law raised by the pleadings within 30 days of filing an answer to the appeal with the
26 ~~state~~ Montana tax appeal board.

27 (c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The
28 response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or

1 a substantive question of law.

2 (2) After the 30-day period specified in subsection (1)(b) but before arguments have been heard, the
3 parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided
4 under 15-2-305. A petition for an adjudication must be signed by each party to the proceeding.

5 (3) In a petition under subsection (1) or (2), one party must be designated as the petitioner and every
6 other party must be designated a respondent. The court may in its discretion grant a petition if it appears that
7 the issues presented involve procedure, the admissibility of evidence, or a substantive question of law and do
8 not require the determination of questions of fact and that the controversy would be more expeditiously
9 resolved by an adjudication. If the court grants a petition, it shall rule on all issues presented in the petition and
10 the response, regardless of whether a ruling on less than all of the issues is dispositive of the case."
11

12 **Section 22.** Section 15-2-305, MCA, is amended to read:

13 "**15-2-305. Jurisdiction to make interlocutory adjudication.** A district court may make an
14 interlocutory adjudication of an issue pending before the ~~state-Montana~~ tax appeal board if that issue involves
15 procedure, the admissibility of evidence, or a substantive question of law and does not require the
16 determination of a question of fact. If the petition is granted, the district court shall rule on all issues presented
17 in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the
18 case. Appeals from the ruling of the court may be appealed as in other civil actions."
19

20 **Section 23.** Section 15-2-306, MCA, is amended to read:

21 "**15-2-306. Board may order refund.** (1) In any appeal before the ~~state-Montana~~ tax appeal board
22 when a taxpayer has paid property taxes or fees under written protest and the taxes or fees are held by the
23 treasurer of a unit of local government in a protest fund, the ~~state-Montana~~ tax appeal board shall enter
24 judgment, exclusive of costs, if the board finds that the property taxes or fees should be refunded.

25 (2) The ~~state-Montana~~ tax appeal board's judgment issued pursuant to subsection (1) must be held in
26 abeyance:

27 (a) until the time period for appeal has passed; or

28 (b) if the final decision of the ~~state-Montana~~ tax appeal board has been appealed in accordance with

1 15-2-303."

2

3 **Section 24.** Section 15-6-135, MCA, is amended to read:

4 **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property
5 includes:

6 (a) all property used and owned by cooperative rural electrical and cooperative rural telephone
7 associations organized under the laws of Montana, except property owned by cooperative organizations
8 described in 15-6-137(1)(a);

9 (b) air and water pollution control and carbon capture equipment as defined in this section;

10 (c) new industrial property as defined in this section;

11 (d) any personal or real property used primarily in the production of ethanol-blended gasoline during
12 construction and for the first 3 years of its operation;

13 (e) all land and improvements and all personal property owned by a research and development firm,
14 provided that the property is actively devoted to research and development;

15 (f) machinery and equipment used in electrolytic reduction facilities;

16 (g) all property used and owned by persons, firms, corporations, or other organizations that are
17 engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas
18 and cities and towns of 1,200 permanent residents or less.

19 (2) (a) "Air and water pollution control and carbon capture equipment" means that portion of
20 identifiable property, facilities, machinery, devices, or equipment certified as provided in subsections (2)(b) and
21 (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating,
22 eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or
23 water pollutants that, except for the use of the item, would be released to the environment. This includes
24 machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in
25 pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment
26 is not eligible for certification under this section.

27 (b) Requests for certification must be made on forms available from the department of revenue.

28 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,

1 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

2 (c) The department of environmental quality shall promulgate rules specifying procedures, including
3 timeframes for certification application, and definitions necessary to identify air and water pollution control and
4 carbon capture equipment for certification and compliance. The department of revenue shall promulgate rules
5 pertaining to the valuation of qualifying air and water pollution control and carbon capture equipment. The
6 department of environmental quality shall identify and track compliance in the use of certified air and water
7 pollution control and carbon capture equipment and report continuous acts or patterns of noncompliance at a
8 facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect
9 certification.

10 (d) To qualify for the exemption under subsection (5)(b), the air and water pollution control and carbon
11 capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit
12 or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon
13 capture equipment enhances the performance of existing air and water pollution control and carbon capture
14 equipment, only the market value of the enhancement is subject to the exemption under subsection (5)(b).

15 (e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under
16 subsection (5)(b) includes but is not limited to equipment placed into service to maintain, replace, or repair
17 equipment installed on or before January 1, 2014.

18 (f) A person may appeal the certification, classification, and valuation of the property to the ~~state~~
19 Montana tax appeal board. Appeals on the property certification must name the department of environmental
20 quality as the respondent, and appeals on the classification or valuation of the equipment must name the
21 department of revenue as the respondent.

22 (3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,
23 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been
24 assessed within the state of Montana prior to July 1, 1961.

25 (b) New industrial property does not include:

26 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture,
27 trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

28 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

1 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years
2 or longer.

3 (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group
4 that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a
5 mere expansion, reorganization, or merger of an existing industry.

6 (b) New industry includes only those industries that:

7 (i) manufacture, mill, mine, produce, process, or fabricate materials;

8 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state
9 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial
10 products or materials;

11 (iii) engage in the mechanical or chemical transformation of materials or substances into new products
12 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared
13 by the United States office of management and budget;

14 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if
15 50% or more of an industry's gross sales or receipts are earned from outside the state; or

16 (v) earn 50% or more of their annual gross income from out-of-state sales.

17 (5) (a) Except as provided in subsection (5)(b), class five property is taxed at 3% of its market value.

18 (b) Air and water pollution control and carbon capture equipment placed in service after January 1,
19 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation for a period of 10 years from the
20 date of certification, after which the property is assessed at 100% of its taxable value."

21

22 **Section 25.** Section 15-6-158, MCA, is amended to read:

23 **"15-6-158. Class fifteen property -- description -- taxable percentage.** (1) Class fifteen property
24 includes:

25 (a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for
26 the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil
27 recovery operations;

28 (b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

- 1 (c) carbon sequestration equipment;
- 2 (d) equipment used in closed-loop enhanced oil recovery operations; and
- 3 (e) all property of pipelines, including pumping and compression equipment, carrying products other
- 4 than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried
- 5 by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

6 (2) For the purposes of this section, the following definitions apply:

7 (a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility

8 that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil

9 recovery operation.

10 (b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide

11 pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale

12 formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery

13 operations.

14 (c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including

15 equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon

16 dioxide in the sequestration location.

17 (d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for

18 sequestration.

19 (e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described

20 in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation,

21 and testing has been completed and the full enhanced oil recovery process has been commenced, injects

22 carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the

23 injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent

24 catastrophic or unforeseen occurrences.

25 (f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for

26 transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production

27 facility, or ethanol production facility.

28 (g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of

1 carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does
2 not include wells from which the primary product is carbon dioxide.

3 (3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop
4 enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy
5 construction, as provided in 18-2-414, were not paid during the construction phase.

6 (4) (a) Except as provided in subsection (4)(b), class fifteen property is taxed at 3% of its market
7 value.

8 (b) Carbon sequestration equipment placed in service after January 1, 2014, that is certified as
9 provided in subsection (5) and that has a current granted tax abatement under 15-24-3111 is taxed at 1.5% of
10 its reduced market value during the qualifying period provided for in 15-24-3111(7).

11 (5) (a) Requests for certification must be made on forms available from the department of revenue.
12 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,
13 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

14 (b) The board of oil and gas conservation shall promulgate rules specifying procedures, including
15 timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for
16 certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of
17 carbon sequestration equipment. The board of oil and gas conservation shall identify and track compliance in
18 the use of carbon sequestration equipment and report continuous acts or patterns of noncompliance at a facility
19 to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect
20 certification.

21 (c) A person may appeal the certification, classification, and valuation of the property to the ~~state~~
22 Montana tax appeal board. Appeals on the property certification must name the board of oil and gas
23 conservation as the respondent, and appeals on the classification or valuation of the equipment must name the
24 department of revenue as the respondent."

25

26 **Section 26.** Section 15-6-231, MCA, is amended to read:

27 **"15-6-231. (Temporary) Periodic review of property tax exemption -- dispute resolution --**
28 **rulemaking.** (1) Owners of real property shall apply to the department for a property tax exemption under 15-6-

1 201(1)(b), (1)(e) through (1)(g), (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, and 15-6-
2 227.

3 (2) The department shall administer the provisions of subsection (1) by requiring real property owners
4 or entities to submit:

5 (a) a renewal application and the accompanying fee provided for in 15-6-233 for each real property
6 that is receiving tax-exempt status on April 30, 2015; and

7 (b) any further information deemed necessary by the department as established by rule for the
8 purpose of making a determination of continued eligibility for tax-exempt status.

9 (c) (i) The initial renewal application must be submitted to the department no later than March 1,
10 2016. Subject to subsection (2)(c)(ii), the department shall require uniform renewal applications to be submitted
11 on a cyclical basis as established by rule, and cyclical review must occur at least every 6 years.

12 (ii) A real property owner or entity that received a new exemption within 2 calendar years of the
13 uniform renewal application deadline is not required to submit a renewal application during the property's first
14 review cycle.

15 (3) The department shall review the information provided and shall approve or deny the application for
16 exemption. If the department determines that the real property or a portion of the real property is no longer
17 eligible for a property tax exemption, it shall send the owner or entity claiming the exemption a notice of the real
18 property or portion of the real property that is subject to loss of eligibility by posted mail, by e-mail, or
19 electronically. The owner or entity may seek review of the department's final determination with the ~~state~~
20 Montana tax appeal board.

21 (4) The department shall provide public notice to real property owners or entities for which it has a
22 last-known address of their obligation to reapply for tax-exempt status under the provisions of subsection (2) by:

23 (a) sending through posted mail, by e-mail, or electronically a notice to real property owners or
24 entities for which it has a last-known address; and

25 (b) publishing notices on its website and in publications of general circulation in Montana.

26 (5) The department shall establish uniform deadlines for owners or entities to reapply for tax-exempt
27 status while maintaining consistency, uniform standards, and an orderly review process. The department shall
28 consider the timeframe for certification of taxable value to taxing authorities under 15-10-202 when it

1 establishes deadlines under this section.

2 (6) The department may grant a reasonable extension of time for a real property owner to comply with
3 this section whenever, in its judgment, good cause exists.

4 (7) The department may adopt rules that are necessary to implement and administer the provisions of
5 15-6-233 and this section. (Terminates December 31, 2021--sec. 8, Ch. 372, L. 2015.)"

6

7 **Section 27.** Section 15-7-102, MCA, is amended to read:

8 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

9 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser
10 under contract for deed a notice that includes the land classification, market value, and taxable value of the
11 land and improvements owned or being purchased. A notice must be mailed or, with property owner consent,
12 provided electronically to the owner only if one or more of the following changes pertaining to the land or
13 improvements have been made since the last notice:

14 (i) change in ownership;

15 (ii) change in classification;

16 (iii) change in valuation; or

17 (iv) addition or subtraction of personal property affixed to the land.

18 (b) The notice must include the following for the taxpayer's informational and informal classification
19 and appraisal review purposes:

20 (i) a notice of the availability of all the property tax assistance programs available to property
21 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
22 assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the
23 elderly provided for in 15-30-2337 through 15-30-2341;

24 (ii) the total amount of mills levied against the property in the prior year;

25 (iii) a statement that the notice is not a tax bill; and

26 (iv) a taxpayer option to request an informal classification and appraisal review by checking a box on
27 the notice and returning it to the department.

28 (c) When the department uses an appraisal method that values land and improvements as a unit,

1 including the sales comparison approach for residential condominiums or the income approach for commercial
2 property, the notice must contain a combined appraised value of land and improvements.

3 (d) Any misinformation provided in the information required by subsection (1)(b) does not affect the
4 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

5 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
6 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
7 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
8 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
9 changes over the prior tax year.

10 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
11 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
12 15-1-402.

13 (c) The department is not required to mail or provide electronically the notice to a new owner or
14 purchaser under contract for deed unless the department has received the realty transfer certificate from the
15 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
16 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
17 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

18 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
19 market value of the property as determined by the department or with the classification of the land or
20 improvements, the owner may request an informal classification and appraisal review by submitting an
21 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
22 notice and returning it to the department in a manner prescribed by the department.

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
25 the 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 in writing or by checking a
28 box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the

1 appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30
2 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-
3 year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer must
4 make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the
5 valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle,
6 within 30 days from the date on the notice.

7 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only once
8 each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days
9 from the date on the classification and appraisal notice for a reduction in the appraised value to be considered
10 for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the
11 classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal
12 cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer must make the
13 objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is
14 being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle,
15 within 30 days from the date on the notice.

16 (b) If the objection relates to residential or commercial property and the objector agrees to the
17 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
18 8 weeks of submission of the objection, the following information:

19 (i) the methodology and sources of data used by the department in the valuation of the property; and
20 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that the
21 methodology was used.

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

24 (i) comparable sales data used by the department to value the property; and
25 (ii) sales data used by the department to value residential property in the property taxpayer's market
26 model area.

27 (d) For properties valued using the income approach as one approximation of market value, notice
28 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the

1 receipt of all aggregate model output that the department used in the valuation model for the property.

2 (e) The review must be conducted informally and is not subject to the contested case procedures of
3 the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
4 selling price of the property and other relevant information presented by the taxpayer in support of the
5 taxpayer's opinion as to the market value of the property. The department shall consider an independent
6 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
7 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the
8 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must
9 provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to
10 the taxpayer of the time and place of the review.

11 (f) After the review, the department shall determine the correct appraisal and classification of the land
12 or improvements and notify the taxpayer of its determination by mail or electronically. The department may not
13 determine an appraised value that is higher than the value that was the subject of the objection unless the
14 reason for an increase was the result of a physical change in the property or caused by an error in the
15 description of the property or data available for the property that is kept by the department and used for
16 calculating the appraised value. In the notification, the department shall state its reasons for revising the
17 classification or appraisal. When the proper appraisal and classification have been determined, the land must
18 be classified and the improvements appraised in the manner ordered by the department.

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

21 (a) the taxpayer has submitted an objection on written or electronic forms provided by the department
22 or by checking a box on the notice; and

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

25 (5) A taxpayer's written objection or objection made by checking a box on the notice and
26 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
27 appraisal and the department's notification to the taxpayer of its determination and the reason for that
28 determination are public records. The department shall make the records available for inspection during regular

1 office hours.

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

12

13 **Section 28.** Section 15-7-139, MCA, is amended to read:

14 **"15-7-139. Requirements for entry on property by property valuation staff employed by**
 15 **department -- authority to estimate value of property not entered -- rules.** (1) Subject to the conditions and
 16 restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the
 17 department and acting within the course and scope of the employees' official duties.

18 (2) A person qualified under subsection (1) may enter private land to appraise or audit property for
 19 property tax purposes.

20 (3) (a) No later than November 30 of each year, the department shall publish in a newspaper of
 21 general circulation in each county a notice that the department may enter property for the purpose of appraising
 22 or auditing property.

23 (b) The published notice must indicate:

24 (i) that a landowner may require that the landowner or the landowner's agent be present when the
 25 person qualified in subsection (1) enters the land to appraise or audit property;

26 (ii) that the landowner shall notify the department in writing of the landowner's requirement that the
 27 landowner or landowner's agent be present; and

28 (iii) that the landowner's written notice must be mailed to the department at an address specified and

1 be postmarked not more than 30 days following the date of publication of the notice. The department may grant
2 a reasonable extension of time for returning the written notice.

3 (4) The written notice described in subsection (3)(b)(ii) must be legible and include:

4 (a) the landowner's full name;

5 (b) the mailing address and property address; and

6 (c) a telephone number at which an appraiser may contact the landowner during normal business
7 hours.

8 (5) When the department receives a written notice as described in subsection (4), the department
9 shall contact the landowner or the landowner's agent to establish a date and time for entering the land to
10 appraise or audit the property.

11 (6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from
12 entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land
13 pursuant to subsection (5), the department shall estimate the value of the real and personal property located on
14 the land.

15 (7) A county tax appeal board and the ~~state~~-Montana tax appeal board may not adjust the estimated
16 value of the real or personal property determined under subsection (6) unless the landowner or the landowner's
17 agent:

18 (a) gives permission to the department to enter the land to appraise or audit the property; or

19 (b) provides to the department and files with the county tax appeal board or the ~~state~~-Montana tax
20 appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of
21 real estate appraisers. The appraisal must be conducted in accordance with current uniform standards of
22 professional appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal
23 must be conducted within 1 year of the reappraisal valuation date provided for in 15-7-103(6) and must
24 establish a separate market value for each improvement and the land.

25 (8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the
26 person identification sufficient to identify the person and the person's employer and shall present the
27 identification upon request.

28 (9) The authority granted by this section does not authorize entry into improvements, personal

1 property, or buildings or structures without the permission of the owner or the owner's agent.

2 (10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless
3 approval for other vehicular access is granted by the landowner.

4 (11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The
5 rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to
6 respond to notices from the department."
7

8 **Section 29.** Section 15-8-112, MCA, is amended to read:

9 **"15-8-112. Assessments to be made on classification and appraisal.** (1) The assessments of all
10 lands, all city and town lots, and all improvements must be made on the classification and appraisal as made or
11 caused to be made by the department.

12 (2) The percentage basis of assessed value as provided for in chapter 6, part 1, is determined and
13 assigned by the department when it makes its annual assessment of the property that it is required to assess
14 centrally. The department shall apportion the assessments to the various counties, and its determination is final
15 except as to the right of review in the ~~state~~-Montana tax appeal board or the proper court."
16

17 **Section 30.** Section 15-8-113, MCA, is amended to read:

18 **"15-8-113. Appeal from percentage assignment.** If any taxpayer disagrees with the percentage
19 assignment made by the department, the taxpayer may appeal to the county tax appeal board on the
20 percentage assignment the same as a taxpayer may now appeal on valuations and also may appeal from the
21 county tax appeal board to the ~~state~~-Montana tax appeal board, whose findings are final except as to the right
22 of review in the proper courts."
23

24 **Section 31.** Section 15-8-115, MCA, is amended to read:

25 **"15-8-115. Department to defend property tax appeals -- costs and judgments.** (1) Except as
26 provided in 15-8-202, the department is the party defendant in any proceeding before a county tax appeal
27 board, the ~~state~~-Montana tax appeal board, or a court of law that seeks to dispute or adjust an action of the
28 department under 15-8-101 arising from the exercise of the department's duties as prescribed by law or

1 administrative rule. For the purposes of proceedings before county tax appeal boards, service on the
 2 department may be obtained by serving the person designated to receive service for the department.

3 (2) Costs, if any, must be assessed against the department and not against a local taxing unit.

4 (3) In a suit brought in a court of this state for the refund of taxes paid under protest in which the taxes
 5 paid are held by the treasurer of a unit of local government in a protest fund, the court shall enter judgment,
 6 exclusive of costs, against the treasurer if the court finds the taxes should be refunded."

7

8 **Section 32.** Section 15-8-202, MCA, is amended to read:

9 **"15-8-202. Motor vehicle assessment by department of justice.** (1) (a) The department of justice
 10 shall determine the registration fee on light vehicles in accordance with 61-3-321 and 61-3-562.

11 (b) For the purposes of the local option motor vehicle tax under 61-3-537, the department of justice
 12 shall assess all light vehicles in accordance with 61-3-503.

13 (c) The department of justice shall determine the registration fee for all buses, trucks having a
 14 manufacturer's rated capacity of more than 1 ton, and truck tractors in accordance with 61-3-321 and 61-3-529.

15 (d) Taxes and registration fees on a motor vehicle under this subsection (1) must be assessed or
 16 imposed in each year on the person to whom the vehicle is registered.

17 (2) (a) The department of justice is authorized to appear in any proceeding before a county tax
 18 appeal board, the ~~state-Montana~~ tax appeal board, or a court that seeks to dispute an assessment made by the
 19 department pursuant to the authority granted under this section.

20 (b) For the purposes of proceedings before county tax appeal boards or the ~~state-Montana~~ tax appeal
 21 board, service of the application required under 15-15-201 must be made on the attorney general. A copy of
 22 any application giving rise to a proceeding before a county tax appeal board or the ~~state-Montana~~ tax appeal
 23 board must also be served on the county treasurer of the county in which the vehicle that is the subject of the
 24 proceeding was registered."

25

26 **Section 33.** Section 15-15-101, MCA, is amended to read:

27 **"15-15-101. County tax appeal board -- meetings and compensation.** (1) The board of county
 28 commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and

1 with the members to serve staggered terms of 3 years each. The members of each county tax appeal board
2 must be residents of the county in which they serve.

3 (2) (a) The members receive compensation as provided in subsection (2)(b) and travel expenses, as
4 provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers'
5 appeals from property tax assessments or when they are attending meetings called by the ~~state-Montana~~ tax
6 appeal board. Travel expenses and compensation must be paid from the appropriation to the ~~state-Montana~~ tax
7 appeal board.

8 (b) (i) The daily compensation for a member is as follows:

9 (A) \$45 for 4 hours of work or less; and

10 (B) \$90 for more than 4 hours of work.

11 (ii) For the purpose of calculating work hours in this subsection (2)(b), work includes hearing tax
12 appeals, deliberating with other board members, and attending meetings called by the ~~state-Montana~~ tax
13 appeal board.

14 (3) Office space and equipment for the county tax appeal boards must be furnished by the county. All
15 other incidental expenses must be paid from the appropriation of the ~~state-Montana~~ tax appeal board.

16 (4) The county tax appeal board shall hold an organizational meeting each year on the date of its first
17 scheduled hearing, immediately before conducting the business for which the hearing was otherwise
18 scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the
19 board. The county tax appeal board shall continue in session from July 1 of the current tax year until December
20 31 of the current tax year to hear protests concerning assessments made by the department until the business
21 of hearing protests is disposed of and, as provided in 15-2-201, may meet after December 31.

22 (5) In counties that have appointed more than three members to the county tax appeal board, only
23 three members shall hear each appeal. The presiding officer shall select the three members hearing each
24 appeal.

25 (6) In connection with an appeal, the county tax appeal board may change any assessment or fix the
26 assessment at some other level. Upon notification by the county tax appeal board, the county clerk and
27 recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to
28 hear scheduled protests concerning assessments and the latest date the county tax appeal board may take

1 applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if
2 none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of
3 the current tax year.

4 (7) Challenges to a department rule governing the assessment of property or to an assessment
5 procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers
6 unless an action is brought in the district court as provided in 15-1-406."

7

8 **Section 34.** Section 15-15-103, MCA, is amended to read:

9 **"15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax
10 appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or
11 agent making the application with regard to the value of the property of the person. A reduction may not be
12 made unless the applicant makes an application, as provided in 15-15-102, and attends the county board
13 hearing. An appeal of the county board's decision may not be made to the ~~state-Montana~~ tax appeal board
14 unless the person or the person's agent has exhausted the remedies available through the county board. In
15 order to exhaust the remedies, the person or the person's agent shall attend the county board hearing. On
16 written request by the person or the person's agent and on the written concurrence of the department, the
17 county board may waive the requirement that the person or the person's agent attend the hearing. The
18 testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the
19 decision of the county board is appealed, the record of the proceedings, including the electronic recording of all
20 testimony, must be forwarded, together with all exhibits, to the ~~state-Montana~~ board. The date of the hearing,
21 the proceedings before the county board, and the decision must be entered upon the minutes of the county
22 board, and the county board shall notify the applicant of its decision by mail within 3 days. A copy of the
23 minutes of the county board must be transmitted to the ~~state-Montana~~ board no later than 3 days after the
24 county board holds its final hearing of the year.

25 (2) (a) Except as provided in 15-15-201, if a county board refuses or fails to hear a taxpayer's timely
26 application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the
27 day following the county board's final meeting for that year. The department shall enter the appraisal or
28 classification sought in the application in the property tax record. An application is not automatically granted for

1 the following appeals:

2 (i) those listed in 15-2-302(1); and

3 (ii) if a taxpayer's appeal from the department's determination of classification or appraisal made
4 pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the county
5 board during its current session.

6 (b) The county board shall provide written notification of each application that was automatically
7 granted pursuant to subsection (2)(a) to the department, the ~~state-Montana~~ board, and any affected municipal
8 corporation. The notice must include the name of the taxpayer and a description of the subject property.

9 (3) The county tax appeal board shall consider an independent appraisal provided by the taxpayer if
10 the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was
11 conducted within 6 months of the valuation date. If the county tax appeal board does not use the appraisal
12 provided by the taxpayer in conducting the appeal, the county board ~~must~~ shall provide to the taxpayer the
13 reason for not using the appraisal."
14

15 **Section 35.** Section 15-15-104, MCA, is amended to read:

16 **"15-15-104. Appeal to ~~state-Montana~~ tax appeal board.** (1) If the appearance provisions of 15-15-
17 103(1) have been complied with, a person or the department, on behalf of the state, or any municipal
18 corporation aggrieved by the action of any county tax appeal board may appeal to the ~~state-Montana~~ board
19 under 15-2-301.

20 (2) If an appeal has been automatically granted by a county tax appeal board pursuant to 15-15-
21 103(2), the department, on behalf of the state, or any municipal corporation aggrieved by the action may appeal
22 to the ~~state-Montana~~ tax appeal board under 15-2-301. The time for filing an appeal commences on receipt by
23 the department of the written notification required by 15-15-103(2)(b)."
24

25 **Section 36.** Section 15-15-201, MCA, is amended to read:

26 **"15-15-201. Motor vehicle tax appeals -- payment and protest of local option taxes or fees in
27 lieu of tax on motor vehicles.** (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on
28 light vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice

1 under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after receipt of
2 the renewal notice from the department as provided in 61-3-535. The application must be on a form prescribed
3 by the department of justice in consultation with the ~~state~~ Montana tax appeal board.

4 (b) The application must include a specific explanation of the basis for the taxpayer's appeal. The
5 basis for appeal must be related to the factors to be considered and applied by the department of justice under
6 61-3-503 and 61-3-529 and established by the department's rulemaking authority in 61-14-101.

7 (2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes
8 or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as
9 required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and
10 distributed in the same manner as those received without protest.

11 (b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding
12 concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

13 (3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next
14 regularly scheduled session if the application for the appeal was filed by December 1. If during its current
15 session, a county tax appeal board refuses or fails to hear a taxpayer's application that was timely filed by
16 December 1, then the taxpayer's application is considered to be granted on the day following the board's final
17 meeting for that year.

18 (b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in
19 the following year. If a taxpayer's application that was timely filed after December 1 of the current session of the
20 county tax appeal board is held over to a session in the following year and if the county tax appeal board
21 refuses or fails to hear the application during the following session, then the application is considered to be
22 granted on the day following the board's final meeting for that year."
23

24 **Section 37.** Section 15-16-603, MCA, is amended to read:

25 "**15-16-603. Refund of taxes -- limitations on refunds.** (1) Subject to the provisions in subsections
26 (2) and (3), a board of county commissioners shall order a refund:

27 (a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an
28 appeal pursuant to 15-1-402 was not available;

- 1 (b) on a tax paid for which a refund is allowed under 15-16-612 or 15-16-613;
- 2 (c) on a tax, penalty, or interest collected as a result of an error in the description or location of real
3 property or improvements or for duplicate taxes paid as determined by the department of revenue;
- 4 (d) on net or gross proceeds tax, centrally assessed property tax, penalty, or interest when the
5 department of revenue notifies the board of county commissioners of an assessment revision completed
6 pursuant to 15-8-601;
- 7 (e) upon entry of a decision either by the district court or by the ~~state-Montana~~ tax appeal board under
8 15-2-306 that has not been appealed to a higher court; or
- 9 (f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax or
10 fee proceeding under 15-15-201.

11 (2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

12 (3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a
13 representative of the taxpayer files a written claim with the board of county commissioners within 10 years after
14 the date when the second half of the taxes would have become delinquent if the taxes had not been paid.

15 (b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration of the
16 error, whichever period is shorter.

17 (c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department of
18 revenue access to the taxpayer's property for the purposes of appraising the property."

19

20 **Section 38.** Section 15-23-102, MCA, is amended to read:

21 **"15-23-102. Independent appraisal option.** (1) The department of revenue may have property
22 subject to the provisions of this chapter assessed by a qualified independent appraiser when both the
23 department and the owner of the property subject to the assessment agree in writing:

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

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

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

27 (2) Appeals from the decision of the department are subject to mediation under 15-1-212 and may be
28 taken to the ~~state-Montana~~ tax appeal board."

1

2 **Section 39.** Section 15-30-2607, MCA, is amended to read:

3 **"15-30-2607. Application for revision -- appeal.** An application for revision may be filed with the
4 department by a taxpayer within 3 years from the last day prescribed for filing the return as provided in 15-30-
5 2605(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the
6 department has revised a return pursuant to 15-30-2605(3), the taxpayer may revise the same return until the
7 liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the
8 department, the taxpayer may appeal to the ~~state~~ Montana tax appeal board."

9

10 **Section 40.** Section 15-30-2608, MCA, is amended to read:

11 **"15-30-2608. Judicial review.** (1) The determination of the ~~state~~ Montana tax appeal board may be
12 reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or in which
13 the taxpayer's principal office or place of business is located by a complaint filed by the taxpayer or the
14 department within 60 days after the receipt of notice of the determination. Proceedings for review must be
15 otherwise as specified under the Montana Administrative Procedure Act.

16 (2) The remedies provided by this chapter for the collection of the tax must be stayed, and an
17 assessment, distraint, or proceedings in court for collection of the taxes may not be made, begun, or
18 prosecuted until 90 days after the court action is finally determined. From any determination of the court, an
19 appeal to the supreme court may be taken by either party."

20

21 **Section 41.** Section 15-30-3113, MCA, is amended to read:

22 **"15-30-3113. (Temporary) Review determination -- termination -- confidentiality.** (1) Subject to
23 subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to
24 determining whether a student scholarship organization is in compliance with 15-30-3102, 15-30-3103, and 15-
25 30-3105.

26 (2) If a student scholarship organization is not in compliance, the department shall provide to the
27 organization written notice of the specific failures and the organization has 30 days from the date of the notice
28 to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final

1 written notice of the failure to the organization. The organization may appeal the department's determination of
2 failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of
3 the notice.

4 (3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is
5 not resolved, the department shall issue a final department decision.

6 (b) The final department decision for a student scholarship organization must provide that the student
7 scholarship organization:

8 (i) will be removed from the list of eligible student scholarship organizations provided in 15-30-3106
9 and notified of the removal; and

10 (ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible
11 list cease all operations as a student scholarship organization and transfer all scholarship account funds to a
12 properly operating student scholarship organization.

13 (4) A student scholarship organization that receives a final department decision may seek review of
14 the decision from the ~~state~~ Montana tax appeal board pursuant to 15-2-302.

15 (5) Either party aggrieved as a result of the decision of the ~~state~~ Montana tax appeal board may seek
16 judicial review pursuant to 15-2-303.

17 (6) If a student scholarship organization files an appeal pursuant to this section, the organization may
18 continue to operate until the decision of the court is final.

19 (7) The identity of donors who make donations to the educational improvement account provided for
20 in 20-9-905 or donations to a student scholarship organization is confidential tax information that is subject to
21 the provisions of 15-30-2618. (Terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

22

23 **Section 42.** Section 15-68-405, MCA, is amended to read:

24 **"15-68-405. Revocation or suspension of permit -- appeal.** (1) Subject to the provisions of
25 subsection (2), the department may, for reasonable cause, revoke or suspend any permit held by a person that
26 fails to comply with the provisions of this chapter.

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

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

6 (4) A person aggrieved by the department's final decision to revoke a permit, as provided in
7 subsection (1), may appeal the decision to the ~~state-Montana~~ tax appeal board within 30 days after the date on
8 which the department issued its final decision."

9

10 **Section 43.** Section 15-68-805, MCA, is amended to read:

11 **"15-68-805. Revocation of corporate license -- appeal.** (1) If a corporation authorized to do
12 business within this state and required to pay the taxes imposed under this chapter fails to comply with any of
13 the provisions of this chapter or any rule of the department, the department may, for reasonable cause, certify
14 to the secretary of state a copy of an order finding that the corporation has failed to comply with specific
15 statutory provisions or rules.

16 (2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing the
17 corporation to do business within this state and may issue a new certificate only when the corporation has
18 obtained from the department an order finding that the corporation has complied with its obligations under this
19 chapter.

20 (3) An order authorized in this section may not be made until the corporation is given an opportunity
21 for dispute resolution as provided in 15-1-211.

22 (4) A final decision of the department may be appealed to the ~~state-Montana~~ tax appeal board."

23

24 **Section 44.** Section 15-70-111, MCA, is amended to read:

25 **"15-70-111. Judicial review and appeals.** Any final written determination by the director of the
26 department of transportation under this chapter may be appealed to the ~~state-Montana~~ tax appeal board which
27 may, upon the record of a hearing, affirm, modify, or reverse the decision of the department. Any party
28 aggrieved by the decision of the board may petition for judicial review by the district court of Lewis and Clark

1 County, and an appeal may be taken from the judgment of the district court to the supreme court."

2

3 **Section 45.** Section 16-11-149, MCA, is amended to read:

4 **"16-11-149. Hearings before department.** (1) A person aggrieved by any action of the department or
5 its authorized agents taken to enforce the tax provisions of this part, except for a revocation of a license
6 pursuant to 16-11-144, may apply to the department, in writing, for a hearing or rehearing within 30 days after
7 the action of the department or its authorized agents.

8 (2) The department shall promptly consider the application, set the application for hearing, and notify
9 the applicant of the time and place fixed for the hearing or rehearing, which may be at its office or in the county
10 of the applicant. After the hearing or rehearing, the department may make any further or other order on the
11 grounds that it may consider proper and lawful and shall furnish a copy to the applicant.

12 (3) The department, on its own initiative, may order a contested case hearing on any matter
13 concerned with licensing, as defined in 2-4-102, in connection with the administration of this part upon at least
14 10 days' notice in writing to the person or persons to be investigated.

15 (4) A person may appeal a final order of the department to the ~~state~~ Montana tax appeal board as
16 provided in 15-2-302."

17

18 **Section 46.** Section 53-19-319, MCA, is amended to read:

19 **"53-19-319. Service provider considered taxpayer under provisions for fee.** Unless the context
20 requires otherwise, the provisions of Title 15 referring to the audit and examination of reports and returns,
21 determination of deficiency assessments, claims for refunds, penalties and interest, jeopardy assessments,
22 warrants, conferences, appeals to the department, appeals to the ~~state~~ Montana tax appeal board, and
23 procedures relating to the application of this part apply as if the fee imposed in this part were a tax imposed
24 upon or measured by net income. The provisions apply to the subscriber liable for the fee and to the service
25 provider required to collect the fee. Any amount collected and required to be remitted to the department is
26 considered a tax upon the service provider required to collect it, and the service provider is considered a
27 taxpayer."

28

1 **Section 47.** Section 61-11-510, MCA, is amended to read:

2 **"61-11-510. Prerequisites to disclosure.** (1) Prior to the disclosure of personal information or highly
3 restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall
4 require the requester to complete and submit an application, in a form prescribed by the department, identifying
5 the requester and specifying the statutorily recognized uses for which the personal information or highly
6 restricted personal information is being sought.

7 (2) The department shall require the requester to provide identification acceptable to the department.

8 (3) (a) The department shall collect the appropriate fees paid by the requester and shall determine
9 the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in
10 accordance with the terms of a contract between the department and the requester.

11 (b) The department shall ensure that fees established by policy or contract:

12 (i) recover the department's cost and expenses as provided in 2-6-1006 and 61-3-101;

13 (ii) include an additional amount necessary to compensate the department for costs associated with
14 developing and maintaining the database from which information is requested; and

15 (iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

16 (c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall
17 charge a fee to any person, including a representative of a federal, state, or local government entity or member
18 of the news media who requests information under this section.

19 (d) The department may not charge a fee for information requested by the governor's office of budget
20 and program planning, the ~~state~~ Montana tax appeal board, any legislative branch agency or committee, or any
21 criminal justice agency, as defined in 44-5-103."

22

23 NEW SECTION. **Section 48. Name change -- direction to code commissioner.** Wherever a
24 reference to the "state tax appeal board" appears in legislation enacted by the 2021 legislature, the code
25 commissioner is directed to change it to a reference to the "Montana tax appeal board".

26

27 NEW SECTION. **Section 49. Saving clause.** [This act] does not affect rights and duties that
28 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

1

- END -