

1 SENATE BILL NO. 507

2 INTRODUCED BY D. ZOLNIKOV

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LAWS; REVISING TAX
 5 PROCEDURE LAWS; REVISING VARIOUS PROCEDURES OF THE COUNTY TAX APPEAL BOARD AND
 6 THE MONTANA TAX APPEAL BOARD; ~~ELIMINATING A PROPERTY TAX EXEMPTION FOR CERTAIN~~
 7 ~~ENTITIES THAT USE EXEMPT PROPERTY TO PRODUCE UNRELATED BUSINESS TAXABLE INCOME;~~
 8 REQUIRING A FORMER EMPLOYEE OF THE DEPARTMENT OF REVENUE TO WAIT A PERIOD OF TIME
 9 BEFORE APPOINTMENT TO A COUNTY TAX APPEAL BOARD; REVISING PROPERTY TAX PAYMENTS
 10 TO ALLOW DELINQUENT PROPERTY TAXES TO BE PAID WITHOUT PAYING CURRENT YEAR TAXES;
 11 AMENDING SECTIONS 15-1-222, 15-2-201, 15-2-301, 15-2-302, 15-2-303, ~~15-6-201~~, 15-7-102, 15-7-105, 15-
 12 7-106, 15-15-101, ~~AND 15-15-103~~, AND 15-16-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 13 ~~DATES DATE~~ AND AN APPLICABILITY ~~DATES DATE~~."

14

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

16

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

18 **"15-1-222. (Temporary) Taxpayer bill of rights.** The department of revenue shall in the course of
 19 performing its duties in the administration and collection of the state's taxes ensure that:

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

22 (2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the
 23 taxpayer's interests before the department ~~or any tax appeal board~~, a county tax appeal board, or the Montana
 24 tax appeal board. The representative is not considered to be practicing law pursuant to 37-61-201 and is not
 25 required to be an attorney or a certified public accountant. The taxpayer has a right to obtain a representative at
 26 any time, except that the selection of a representative may not be used to unreasonably delay a field audit that
 27 is in progress. The representative must have written authorization from the taxpayer to receive from the
 28 department confidential information concerning the taxpayer. The department shall provide copies to the

1 authorized representative of all information sent to the taxpayer and shall notify the authorized representative
2 concerning contacts with the taxpayer.

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

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

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

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

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

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

20 (9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to
21 have the Montana tax appeal board or a court, or both, review any final decision of the department assessing
22 an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court
23 costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711, and
24 lawsuits pertaining to an appeal of the value of class four residential property in which the taxpayer substantially
25 prevails, as provided in 15-2-306.

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

28 (11) the taxpayer has the right to a full explanation of the department's authority to collect

1 delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

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

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

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

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

10 **15-1-222. (Effective January 1, 2024) Taxpayer bill of rights.** The department of revenue shall in
11 the course of performing its duties in the administration and collection of the state's taxes ensure that:

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

14 (2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the
15 taxpayer's interests before the department, a county tax appeal board, or the Montana tax appeal board. The
16 representative is not considered to be practicing law pursuant to 37-61-201 and is not required to be an
17 attorney or a certified public accountant. The taxpayer has a right to obtain a representative at any time, except
18 that the selection of a representative may not be used to unreasonably delay a field audit that is in progress.

19 The representative must have written authorization from the taxpayer to receive from the department
20 confidential information concerning the taxpayer. The department shall provide copies to the authorized
21 representative of all information sent to the taxpayer and shall notify the authorized representative concerning
22 contacts with the taxpayer.

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

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

1 the taxpayer by an employee of the department.

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

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

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

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

12 (9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to
13 have the Montana tax appeal board or a court, or both, review any final decision of the department assessing
14 an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court
15 costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711, and
16 lawsuits pertaining to an appeal of the value of class four residential property in which the taxpayer substantially
17 prevails, as provided in 15-2-306.

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

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

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

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

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

28 (15) the taxpayer has the right to be guaranteed that an employee of the department is not paid,

1 promoted, or in any way rewarded on the basis of assessments or collections from taxpayers."

2

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

4 **"15-2-201. Powers and duties.** (1) It is the duty of the Montana tax appeal board to:

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

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

12 ~~(c)(b)~~ hear appeals from decisions of the county tax appeal boards and assess attorney fees against
13 the department when a taxpayer substantially prevails on the merits of an appeal of the value of class four
14 residential property, as provided in 15-2-306;

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

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

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

28

1 **Section 3.** Section 15-2-301, MCA, is amended to read:

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

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

10 (c) Notice of acceptance of an appeal must be given to the county board by the Montana board.

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

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

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

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

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

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

1 Montana board shall determine the appeal on the record.

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

7 (b) If the appeal is an appeal of the valuation of residential property, the Montana board shall
8 consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the
9 Montana board of real estate appraisers and uses values obtained within the timeframe provided for in
10 subsection (3)(a). The appraisal that is provided by the taxpayer is presumed to establish assessed value in the
11 Montana board proceeding unless the department provides sufficient evidence to rebut the presumption of
12 correctness, including another independent appraisal or other compelling valuation evidence. The Montana
13 board shall address the taxpayer's independent appraisal and the department's valuation evidence in the
14 decision.

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

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

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

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

3

4 **Section 4.** Section 15-2-302, MCA, is amended to read:

5 **"15-2-302. Direct appeal from department decision to Montana tax appeal board -- hearing. (1)**

6 (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in
7 subsection (1)(b) must be made to the Montana tax appeal board.

8 (b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final
9 decisions involving:

10 (i) property centrally assessed under chapter 23;

11 (ii) classification of property as new industrial property;

12 (iii) any other tax, other than the property tax, imposed under this title; or

13 (iv) any other matter in which the appeal is provided by law.

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

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

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

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

28 (6) The decision of the Montana board is final and binding ~~upon~~on all interested parties and not

1 subject to a rehearing unless reversed or modified by judicial review. Proceedings for judicial review of a
 2 decision of the Montana board under this section are subject to the provisions of 15-2-303 and the Montana
 3 Administrative Procedure Act to the extent that it does not conflict with 15-2-303."
 4

5 **Section 5.** Section 15-2-303, MCA, is amended to read:

6 **"15-2-303. Judicial review -- costs and attorney fees.** (1) Any party to an appeal before the
 7 Montana tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

8 (2) Proceedings for review must be instituted by filing a petition in district court in the county in
 9 which the taxable property or some portion of it is located, except the taxpayer has the option to file in the
 10 district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of
 11 the final decision of the Montana tax appeal board ~~or, if a rehearing is requested, within 60 days after service of~~
 12 ~~the final decision~~ and a rehearing of a Montana tax appeal board decision may not be requested after service of
 13 the final decision. Copies of the petition must be promptly served on all parties of record. The department of
 14 revenue shall promptly notify the Montana tax appeal board, in writing, of any judicial review, but failure to do so
 15 has no effect on the judicial review. The department of revenue shall, on request, submit to the Montana tax
 16 appeal board a copy of all pleadings and documents.

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

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

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

24 (6) In addition to costs and attorney fees permitted under 25-10-711, the district court and the
 25 supreme court on the appeal of a district court decision shall award costs and reasonable attorney fees as
 26 determined by the respective court to a taxpayer that substantially prevails, as defined in 15-2-306(4), on the
 27 merits of an appeal of the value of class four residential property. Costs and attorney fees awarded by the
 28 district court and the supreme court are limited to cases in which the department appeals a decision of the

1 Montana tax appeal board."

2

3 **Section 6.** Section 15-6-201, MCA, is amended to read:

4 **~~"15-6-201. Governmental, charitable, and educational categories -- exempt property.~~** (1) The
5 following categories of property are exempt from taxation:

6 (a) ~~except as provided in 15-24-1203, the property of:~~

7 (i) ~~the United States, except:~~

8 (A) ~~if congress passes legislation that allows the state to tax property owned by the federal
9 government or an agency created by congress; or~~

10 (B) ~~as provided in 15-24-1103 ;~~

11 (ii) ~~the state, counties, cities, towns, and school districts;~~

12 (iii) ~~irrigation districts organized under the laws of Montana and not operated for gain or profit;~~

13 (iv) ~~municipal corporations;~~

14 (v) ~~public libraries;~~

15 (vi) ~~rural fire districts and other entities providing fire protection under Title 7, chapter 33;~~

16 (vii) ~~special districts created pursuant to Title 7, chapter 11, part 10; and~~

17 (viii) ~~subject to subsection (2), federally recognized Indian tribes in the state if the property is located
18 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
19 used exclusively by the tribe for essential government services. Essential government services are tribal
20 government administration, fire, police, public health, education, recreation, sewer, water, pollution control,
21 public transit, and public parks and recreational facilities.~~

22 (b) ~~buildings and furnishings in the buildings that are owned by a church and used for actual
23 religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy,
24 together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of
25 the buildings, which must be identified in the application, and all land and improvements used for educational or
26 youth recreational activities if the facilities are generally available for use by the general public but may not
27 exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning,
28 building codes, or subdivision requirements;~~

1 ~~(c) — land and improvements upon the land, not to exceed 15 acres, owned by a federally~~
 2 ~~recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to~~
 3 ~~be used exclusively for religious purposes;~~

4 ~~(d) — property owned and used exclusively for agricultural and horticultural societies not operated for~~
 5 ~~gain or profit;~~

6 ~~(e) — property, not to exceed 80 acres, which must be legally described in the application for the~~
 7 ~~exemption, used exclusively for educational purposes, including dormitories and food service buildings for the~~
 8 ~~use of students in attendance and other structures necessary for the operation and maintenance of an~~
 9 ~~educational institution that:~~

10 ~~(i) — is not operated for gain or profit;~~

11 ~~(ii) — has an attendance policy; and~~

12 ~~(iii) — has a definable curriculum with systematic instruction;~~

13 ~~(f) — property, of any acreage, owned by a tribal corporation created for the sole purpose of~~
 14 ~~establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);~~

15 ~~(g) — property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by~~
 16 ~~the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care~~
 17 ~~facility that is not licensed by the department of public health and human services and organized under Title 35,~~
 18 ~~chapter 2 or 3, is not exempt.~~

19 ~~(h) — property that is:~~

20 ~~(i) — (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,~~
 21 ~~or 21; or~~

22 ~~(B) — owned by a federally recognized Indian tribe within the state and set aside by tribal resolution;~~

23 ~~and~~

24 ~~(ii) — devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent~~
 25 ~~care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and~~

26 ~~(iii) — not maintained and not operated for gain or profit;~~

27 ~~(i) — subject to subsection (2), property that is owned or property that is leased from a federal, state,~~
 28 ~~or local governmental entity by institutions of purely public charity if the property is directly used for purely~~

1 ~~public charitable purposes;~~

2 ~~(j) — evidence of debt secured by mortgages of record upon real or personal property in the state of~~
3 ~~Montana;~~

4 ~~(k) — public museums, art galleries, zoos, and observatories that are not operated for gain or profit;~~

5 ~~(l) — motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association~~
6 ~~or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the~~
7 ~~irrigation of agricultural land;~~

8 ~~(m) — the right of entry that is a property right reserved in land or received by mesne conveyance~~
9 ~~(exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another~~
10 ~~to explore, prospect, or dig for oil, gas, coal, or minerals;~~

11 ~~(n) — (i) property that is owned and used by a corporation or association organized and operated~~
12 ~~exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with~~
13 ~~physical or mental impairments that constitute or result in substantial impediments to employment and that is~~
14 ~~not operated for gain or profit; and~~

15 ~~(ii) — subject to subsection (2)(e), property that is owned and used by an organization owning and~~
16 ~~operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or~~
17 ~~profit;~~

18 ~~(o) — property owned by a nonprofit corporation that is organized to provide facilities primarily for~~
19 ~~training and practice for or competition in international sports and athletic events and that is not held or used for~~
20 ~~private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an~~
21 ~~organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated~~
22 ~~and admitted under the Montana Nonprofit Corporation Act.~~

23 ~~(p) — property rented or leased to a municipality or taxing unit for less than \$100 a year and that is~~
24 ~~used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection~~
25 ~~(1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the~~
26 ~~municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.~~

27 ~~(2) — (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to~~
28 ~~exemption may not be:~~

1 (A) — operated for gain or profit;

2 (B) — held under contract to operate, lease, or sell by a taxable individual;

3 (C) — used or possessed exclusively by a taxable individual or entity; or

4 (D) — held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

5 (ii) — For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property
6 must be:

7 (A) — set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be
8 designated as a recreational facility; and

9 (B) — open to the general public.

10 (b) — For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the
11 federal Internal Revenue Code:

12 (i) — an ordained minister, priest, or rabbi;

13 (ii) — a commissioned or licensed minister of a church or church denomination that ordains ministers
14 if the person has the authority to perform substantially all the religious duties of the church or denomination;

15 (iii) — a member of a religious order who has taken a vow of poverty; or

16 (iv) — a Christian Science practitioner.

17 (c) — For the purposes of subsection (1)(i):

18 (i) — the term "institutions of purely public charity" includes any organization that meets the following
19 requirements:

20 (A) — The organization offers its charitable goods or services to persons without regard to race,
21 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
22 Internal Revenue Code, as amended.

23 (B) — The organization accomplishes its activities through absolute gratuity or grants. However, the
24 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
25 performances or entertainment or by other similar types of fundraising activities.

26 (ii) — agricultural property owned by a purely public charity is not exempt if the agricultural property is
27 used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the
28 Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file

1 annually with the department a copy of its federal tax return reporting any unrelated business taxable income
2 received by the charity during the tax year, together with a statement indicating whether the exempt property
3 was used to generate any unrelated business taxable income.

4 (iii) — up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase
5 even if the property must be improved before it can directly be used for its intended charitable purpose. If the
6 property is not directly used for the charitable purpose within 8 years of receiving an exemption under this
7 section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked
8 and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the
9 owner of the property shall pay an amount equal to the amount of the tax due that year times the number of
10 years that the property was tax exempt under this section. The amount due is a lien upon the property and
11 when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax
12 collected on the property is distributed. At the time the exemption is granted, the department shall file a notice
13 with the clerk and recorder in the county in which the property is located. The notice must indicate that an
14 exemption pursuant to this section has been granted. The notice must describe the penalty for default under
15 this section and must specify that a default under this section will create a lien on the property by operation of
16 law. The notice must be on a form prescribed by the department.

17 (iv) — not more than 160 acres may be exempted by a purely public charity under any exemption
18 originally applied for after December 31, 2004. An application for exemption under this section must contain a
19 legal description of the property for which the exemption is requested.

20 (d) — For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and
21 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
22 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
23 includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is
24 reasonably necessary for use in connection with the public display or observatory use. Unless the property is
25 leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization,
26 real and personal property owned by other persons is exempt if it is:

27 (i) — actually used by the governmental entity or nonprofit organization as a part of its public display;

28 (ii) — held for future display; or

1 (iii) — used to house or store a public display.

2 (e) — For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection
 3 (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income
 4 limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a
 5 form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-
 6 202.

7 (f) — For the purposes of subsection (1), property owned or used by nonprofit health care facilities, a
 8 purely public charity, public museums, art galleries, zoos, and observatories is not exempt if the property is
 9 used to produce unrelated business taxable income as that term is defined in section 512 of the Internal
 10 Revenue Code, 26 U.S.C. 512. An organization provided for in this subsection (2)(f) claiming an exemption for
 11 property shall file annually with the department a copy of the organization's federal tax return reporting any
 12 unrelated business taxable income received by the organization during the tax year, together with a statement
 13 indicating whether the exempt property was used to generate any unrelated business taxable income. "

14

15 **Section 6.** Section 15-7-102, MCA, is amended to read:

16 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

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

22 (i) change in ownership;

23 (ii) change in classification;

24 (iii) change in valuation; or

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

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

28 (i) a notice of the availability of all the property tax assistance programs available to property

1 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
2 assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the
3 elderly provided for in 15-30-2337 through 15-30-2341;

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

5 (iii) the market value for the prior reappraisal cycle;

6 (iv) if the market value has increased by more than 10%, an explanation for the increase in
7 valuation;

8 (v) a statement that the notice is not a tax bill; and

9 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
10 on the notice and returning it to the department.

11 (c) When the department uses an appraisal method that values land and improvements as a unit,
12 including the sales comparison approach for residential condominiums or the income approach for commercial
13 property, the notice must contain a combined appraised value of land and improvements.

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

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

21 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
22 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
23 15-1-402.

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

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

6 (i) For property other than class three property described in 15-6-133, class four property
7 described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30
8 days from the date on the notice.

9 (ii) For class three property described in 15-6-133 and class four property described in 15-6-134,
10 the objection may be made only once each valuation cycle. An objection must be made in writing or by
11 checking a box on the notice within 30 days from the date on the classification and appraisal notice for a
12 reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection
13 made more than 30 days from the date of the classification and appraisal notice will be applicable only for the
14 second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle,
15 the taxpayer shall make the objection in writing or by checking a box on the notice no later than June 1 of the
16 second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of
17 the valuation cycle, within 30 days from the date on the notice.

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

27 (b) If the objection relates to residential or commercial property and the objector agrees to the
28 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within

1 8 weeks of submission of the objection, the following information:

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

3 and

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

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

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

10 (ii) sales data used by the department to value residential property in the property taxpayer's
11 market model area; and

12 (iii) if the cost approach was used by the department to value residential property, the
13 documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

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

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

26 (f) After the review, the department shall determine the correct appraisal and classification of the
27 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
28 not determine an appraised value that is higher than the value that was the subject of the objection unless the

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

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

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

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

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

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

27

28 **Section 7.** Section 15-7-105, MCA, is amended to read:

1 **"15-7-105. Purpose.** In order to produce more uniform appraisal of property throughout the state by
2 encouraging technical training in the principles, methods, and techniques of appraising property and promoting
3 a higher level of professionalism among appraisers, the legislature hereby establishes a system of instruction,
4 examination, and certification for all appraisers. The legislature finds further that members of the Montana tax
5 appeal board must be permitted to benefit from the department's training and receive any instruction that the
6 board considers relevant."

7

8 **Section 8.** Section 15-7-106, MCA, is amended to read:

9 **"15-7-106. Courses of instruction, examination, and certification -- additional courses.** (1) The
10 department shall offer courses in the principles, methods, and techniques of appraising for property tax
11 purposes property in three fields:

12 (a) residential property;

13 (b) agricultural land; and

14 (c) commercial and industrial property.

15 (2) The department shall conduct an examination for those who have completed a course of
16 instruction in any of the three fields listed in subsection (1).

17 (3) A person may not take the examination for appraising commercial and industrial property
18 unless the person holds a certificate in appraising residential property.

19 (4) The department may schedule and conduct other courses within the state for appraisers,
20 assessors, and department personnel for training in the following subjects:

21 (a) personal property assessment;

22 (b) property tax administration; and

23 (c) personnel management, fiscal management, public relations, professional ethics, and related
24 management principles.

25 (5) The department shall issue a certificate to each appraiser, assessor, or other person
26 successfully completing a course of instruction and passing an examination in any of the fields provided for in
27 subsection (1) or any subject provided for in subsection (4).

28 (6) The department shall permit members of the Montana tax appeal board to attend any training

1 provided for in this section without regard to whether a board member has attained a certificate or completed a
2 prerequisite course. Members of the board may not be required to take an examination and the department
3 shall pay for any tuition costs from the department's budget."
4

5 **Section 9.** Section 15-15-101, MCA, is amended to read:

6 **"15-15-101. County tax appeal board -- meetings and compensation.** (1) The board of county
7 commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and
8 with the members to serve staggered terms of 3 years each. The members of each county tax appeal board
9 must be residents of the county in which they serve. A person may not be a member of a county tax appeal
10 board if the person was an employee of the department less than 36 months before the date of appointment.

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

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

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

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

19 (ii) For the purpose of calculating work hours in this subsection (2)(b), work includes hearing tax
20 appeals, deliberating with other board members, and attending meetings called by the Montana tax appeal
21 board.

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

24 (4) The county tax appeal board shall hold an organizational meeting each year on the date of its
25 first scheduled hearing, immediately before conducting the business for which the hearing was otherwise
26 scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the
27 board. The county tax appeal board shall continue in session from July 1 of the current tax year until December
28 31 of the current tax year to hear protests concerning assessments made by the department until the business

1 of hearing protests is disposed of and, ~~as provided in 15-2-201,~~ may meet after December 31 to hear an appeal
 2 at the discretion of the county tax appeal board.

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

6 (6) In connection with an appeal, the county tax appeal board may change any assessment or fix
 7 the assessment at some other level. Upon notification by the county tax appeal board, the county clerk and
 8 recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to
 9 hear scheduled protests concerning assessments and the latest date the county tax appeal board may take
 10 applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if
 11 none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of
 12 the current tax year.

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

16

17 **Section 10.** Section 15-15-103, MCA, is amended to read:

18 **"15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax
 19 appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or
 20 agent making the application with regard to the value of the property of the person. A reduction may not be
 21 made unless the applicant makes an application, as provided in 15-15-102, and attends the county board
 22 hearing. An appeal of the county board's decision may not be made to the Montana tax appeal board unless
 23 the person or the person's agent has exhausted the remedies available through the county board. In order to
 24 exhaust the remedies, the person or the person's agent shall attend the county board hearing. On written
 25 request by the person or the person's agent and on the written concurrence of the department, the county
 26 board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all
 27 witnesses at the hearing and the deliberation of the county tax appeal board in rendering a decision must be
 28 electronically recorded and preserved for 1 year. If the decision of the county board is appealed, the record of

1 the proceedings, including the electronic recording of all testimony and the deliberation of the county tax appeal
 2 board, must be forwarded, together with all exhibits, to the Montana board. The date of the hearing, the
 3 proceedings before the county board, and the decision must be entered upon the minutes of the county board,
 4 and the county board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the
 5 county board must be transmitted to the Montana board no later than 3 days after the county board holds its
 6 final hearing of the year.

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

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

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

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

19 (3) The county tax appeal board shall consider an independent appraisal provided by the taxpayer
 20 if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was
 21 conducted within 6 months of the valuation date. If the county tax appeal board does not use the appraisal
 22 provided by the taxpayer in conducting the appeal, the county board shall provide to the taxpayer the reason for
 23 not using the appraisal."
 24

25 **SECTION 11. SECTION 15-16-102, MCA, IS AMENDED TO READ:**

26 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or cancelled under
 27 the provisions of 10-1-606, 15-23-708, or Title 15, chapter 24, part 17, all taxes levied and assessed in the state
 28 of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103,

1 are payable as follows:

2 (1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within
3 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on
4 May 31 of each year.

5 (2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or
6 within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and
7 draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added
8 to the delinquent taxes as a penalty.

9 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw
10 interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the
11 delinquent taxes as a penalty.

12 (4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without
13 penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

14 (b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-
15 305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without
16 penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be
17 paid and interest accrues from the date on which the taxes were due.

18 (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. ~~The county~~
19 ~~treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or~~
20 ~~more full tax years if taxes currently due for the current tax year have been paid.~~ Payment of taxes for
21 delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for
22 the current tax year is not a redemption of the property tax lien for any delinquent tax year.

23 (b) A payment by a co-owner of an undivided ownership interest that is subject to a separate
24 assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

25 (6) The penalty and interest on delinquent assessment payments for specific parcels of land may
26 be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

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

