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1 (4) "Ancillary service" means a service that is associated with or incidental to the provision of
2 telecommunications services, including detailed telecommunications billing, directory assistance, vertical
3 service, and voice mail service.

4 (5) "Bullion" means any bar, ingot, or commemorative medallion of gold, silver, platinum, palladium, or
5 a combination of these metals for which the value of the metal depends on its content and not the form.

6 (6) "Business" means any activity engaged in by any person or caused to be engaged in by a person
7 with the object of gain, benefit, or advantage, either direct or indirect.

8 (7) (a) "Call center" means a physical location where telephone calls are placed or received for the
9 purpose of making sales, marketing, customer service, or technical support.

10 (b) The term does not include:

11 (i) a location where telephone calls are primarily placed to or received from the same taxpayer, or
12 affiliates of the same taxpayer, that owns or operates the location; or

13 (ii) an insurance, real estate, or brokerage company.

14 (8) "Campground" means any property or premise kept, used, maintained, advertised or held out to the
15 public to be a place where sites are available for the placing of tents, campers, trailers, mobile homes or other
16 mobile accommodations to transient guests.

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

19 (b) The term does not include any preparation containing flour or a product requiring refrigeration.

20 (10) "Coin" or "currency" means any coins or currency made of gold, silver, or other metal or paper that
21 is or has been used as legal tender.

22 (11) "Component member" has the meaning provided in 26 U.S.C. 1563(b) of the Internal Revenue
23 Code.

24 (12) (a) "Conference bridging service" means an ancillary service that links two or more participants of
25 an audio or video conference call and may include the provision of a telephone number.

26 (b) The term does not include the telecommunications service used to reach the conference bridge.

27 (13) "Controlled group" means any corporations or other entities eligible to file a consolidated federal
28 income tax return under the Internal Revenue Code or entitled to only a single surtax exemption for federal

1 corporate income tax purposes under the Internal Revenue Code, and includes a controlled group of
2 corporations as defined in 26 U.S.C. 1563. A controlled group also consists of any subchapter S. corporation,
3 limited liability company, limited liability partnership, general partnership, or limited partnership with at least
4 80% common ownership as if the entity was converted to or taxed as a subchapter C. corporation under the
5 Internal Revenue Code.

6 (14) "De minimis" means the retailer's purchase price or gross receipts of taxable products is 10
7 percent or less of the total purchase price or gross receipts of the bundled products over the full term of a
8 service contract. The determination must be made using either purchase price or gross receipts and not a
9 combination of the two.

10 (15) (a) "Delivery charge" means a charge by the retailer for preparation and delivery to a location
11 designated by the purchaser of tangible personal property, a product transferred electronically, or services,
12 including transportation, shipping, postage, handling, crating, and packing.

13 (b) The term does not include postage for direct mail.

14 (16) "Department" means the department of revenue.

15 (17) "Detailed telecommunications billing service" means an ancillary service of separately stating
16 information pertaining to individual calls on a customer's billing statement.

17 (18) (a) "Direct mail" means any printed material delivered or distributed by United States mail or other
18 delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the
19 direction of the purchaser if the cost of the items are not billed directly to the recipients. The term includes
20 tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in
21 the package containing the printed material.

22 (b) The term does not include multiple items of printed material delivered to a single address.

23 (19) "Direct mail service" means any business that prepares direct mail.

24 (20) "Directory assistance" means an ancillary service of providing telephone number information or
25 address information.

26 (21) "Domesticated fur-bearing animal" means a fur-bearing animal pen bred for more than two
27 generations or a fur-bearing animal purchased from a breeder outside the state and brought into the
28 state. All other fur-bearing animals are wild fur-bearing animals.

1 (22) "Financial institution" means:

2 (a) any banking institution, production credit association, or savings and loan association organized
3 under the laws of the United States and located or doing business in this state;

4 (b) any bank, savings and loan association, mutual saving bank, or trust company, organized under
5 the laws of this state or of any other state, district, territory, or country, doing business within this state;

6 (c) any person in the business of buying loans, notes, or other evidences of debt except a person
7 registered as broker-dealers; and

8 (d) a person in the business of making installment repayment and open-end loans that may be
9 unsecured or secured by real or personal property, that are in an aggregate amount exceeding \$500, that are
10 repaid in two or more installment payments or one lump sum payment extending over a time exceeding 30 days
11 from the day the loan was made except when the loan is made by the person selling the property, incidental to
12 the sale of the property and when the seller is primarily in the business of selling the real or personal property
13 except when the loan is made to a related corporation and the primary business of the related corporation is the
14 production and sale of tangible personal property or when the loan is made in the form of an advance to secure
15 the production of equipment to be obtained by the lender or to finance a joint venture between the lender and
16 others that has been formed to produce and sell tangible personal property.

17 (23) "Fixed wireless service" means a telecommunications service that provides radio communication
18 between fixed points.

19 (24) (a) "Food" or "food ingredient" means any substance, whether in liquid, concentrated, solid, frozen,
20 dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for its taste or
21 nutritional value.

22 (b) The term does not include alcoholic beverages, tobacco, or prepared food.

23 (25) "Gross receipts" has the meaning provided in [section 2].

24 (26) (a) "Interest" means compensation allowed by law for the use, forbearance, or detention of money
25 or its equivalent, including but not limited to, points, loan origination fees, credit service or carrying charges,
26 charges for unanticipated late payments, and any other charges, direct or indirect, as an incident to or as a
27 condition of the extension of credit.

28 (b) The term does not include charges made by a third party.

1 (27) "International telecommunications service" means a telecommunications service that originates or
2 terminates in the United States or a United States territory or possession and terminates or originates outside of
3 the United States or a United States territory or possession, respectively.

4 (28) "Interstate telecommunications service" means a telecommunications service that originates in
5 one United States state or a United States territory or possession and terminates in a different United States
6 state or United States territory or possession.

7 (29) "Intrastate telecommunications service" means a telecommunications service that originates in
8 one United States state or a United States territory or possession and terminates in the same United States
9 state or United States territory or possession.

10 (30) (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property or
11 any product transferred electronically for a fixed or indeterminate term for consideration. A lease or rental may
12 include a future option to purchase or extend.

13 (b) The term does not include:

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

16 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
17 upon completion of required payments and payment of an option price does not exceed the greater of \$100 or
18 1% of the total required payments; or

19 (iii) providing tangible personal property along with an operator for a fixed or indeterminate period of
20 time as long as the operator is necessary for the equipment to perform as designed. The operator must do
21 more than maintain, inspect, or set-up the tangible personal property.

22 (31) "Lodging establishment" means any building, structure, property or premise kept, used,
23 maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished to
24 transient guests.

25 (32) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or
26 routed regardless of the technology used, for which either the origination point or termination point, or both, of
27 the transmission, conveyance, or routing are not fixed.

28 (33) "Motorboat" has the meaning provided in 61-1-101.

1 (34) "Motor vehicle" has the meaning provided in 61-1-101.

2 (35) "Paging service" means a telecommunications service that provides transmission of coded radio
3 signals for the purpose of activation specific pages. The transmission may include either messages or sounds,
4 or both.

5 (36) "Pawnbroker" means a person who is engaged in the business of lending money and who accepts
6 the possession of tangible personal property or a product transferred electronically as security for the loan.

7 (37) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
8 company, limited liability partnership, the state of Montana and its political subdivisions, or any other legal
9 entity.

10 (38) "Pesticide" means:

11 (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating
12 pests;

13 (b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or
14 desiccant; or

15 (c) any substance or mixture of substances intended to be used as a spray adjuvant.

16 (39) "Prepaid calling service" means the right to access exclusively telecommunications services, that
17 must be paid for in advance and that enables the origination of calls using an access number or authorization
18 code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the
19 number declines with use in a known amount.

20 (40) "Prepaid wireless calling service" means a telecommunications service that provides the right to
21 utilize mobile wireless service as well as other nontelecommunications services, including the download of
22 digital products delivered electronically, content and ancillary services, that must be paid for in advance and
23 that is sold in predetermined units or dollars of which the number declines with use in a known amount.

24 (41) (a) "Prepared food" means food sold in a heated state or heated by the seller, two or more food
25 ingredients mixed or combined by the seller for sale as a single item, or food sold with eating utensils provided
26 by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

27 (b) The term does not include:

28 (i) food that is only cut, repackaged, or pasteurized by the seller; or

1 (ii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the
2 consumer to prevent food borne illnesses as recommended by the food and drug administration in chapter 3,
3 part 401.11 of its food code.

4 (42) "Private communication service" means a telecommunications service that entitles the customer
5 to exclusive or priority use of a communications channel or group of channels between or among termination
6 points, regardless of the manner in which the channel or channels are connected, and includes switching
7 capacity, extension lines, stations, and any other associated services that are provided in connection with the
8 use of the channel or channels.

9 (43) (a) "Product transferred electronically" means any product obtained by the purchaser by means
10 other than tangible storage media.

11 (b) A product transferred electronically does not include any intangible such as a patent, stock, bond,
12 goodwill, trademark, franchise, or copyright.

13 (44) "Professional employer organization" means a firm that:

14 (a) enters into a contractual agreement with a client company to create a coemployment relationship
15 for the provision of payroll, benefits, and other human resources functions;

16 (b) covers at least 75% of the client company's full-time or full-time equivalent employees domiciled in
17 Montana; and

18 (c) maintains separate books and records of account for each client company.

19 (45) "Raw materials" means containers, labels, cartons, packing cases, wrapping paper, twine, glue,
20 bags, bottles, shipping cases, wrapping film, strapping, rope, tape, cans, lids, boxes, pads, dividers,
21 stockinettes, casings, and similar articles and receptacles used by manufacturers, processors, or fabricators.

22 (46) "Related corporation" means a corporation associated with another as its parent or subsidiary, or
23 in a brother-sister relation.

24 (47) "Relief agency" means the state, a county, a municipality, a consolidated city-county government,
25 or any agency engaged in actual relief work.

26 (48) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for
27 resale, sublease, or subrent.

28 (49) (a) "Retailer" means any person engaged in the business of selling:

- 1 (i) tangible goods, wares, or merchandise at retail;
- 2 (ii) gas, electricity, water, and communication service;
- 3 (iii) tickets or admissions to places of amusement and athletic events as provided in [sections 1 through
- 4 44];
- 5 (iv) retail products transferred electronically; or
- 6 (v) services not exempt under [section 17].

7 (b) The term does not include the isolated or occasional sale of tangible personal property or a product
8 transferred electronically at retail by a person who does not hold oneself out to engage in the business of
9 selling tangible personal property or products transferred electronically at retail.

10 (50) "Sale" means the transfer of tangible personal property or a product transferred electronically for
11 consideration or the performance of a service for consideration.

12 (51) (a) "Sectional home" means a home prebuilt in whole or in part for the purpose of permanent
13 placement on a foundation.

14 (b) The term does not include a mobile home or a manufactured home as defined in 15-1-101.

15 (52) (a) "Service" means an activity engaged in for another person for a fee, retainer, commission, or
16 other monetary charge that involves predominantly the performance of a service as distinguished from selling
17 property. In determining what is a service, the intended use, principal objective, or ultimate objective of the
18 contracting parties are not controlling.

19 (b) The term does not include services rendered by an employee for the employer.

20 (53) "Shoppers guide" means an advertising publication with advertisements solicited from the general
21 public and whose publications are for free distribution to the general public and are published regularly at least
22 once a month, consisting of printed sheets containing advertising, bearing a date of issue, and devoted to
23 advertising of general interest.

24 (54) (a) "Soft drink" means any nonalcoholic beverage that contains natural or artificial sweeteners.

25 (b) The term does not include a beverage that contains:

- 26 (i) milk or milk products;
- 27 (ii) soy, rice, or similar milk substitutes; or
- 28 (iii) more than 50% vegetable juice or fruit juice by volume.

1 (55) "Stocks of merchandise" means personal property that is held primarily for sale and not subject to
2 annual depreciation;

3 (56) "Tangible personal property" means personal property that can be seen, weighed, measured, felt,
4 or touched, or that is in any other manner perceptible to the senses. The term includes electricity, water, gas,
5 steam, and prewritten computer software.

6 (57) (a) "Telecommunications service" means the electronic transmission, conveyance, or routing of
7 voice, data, audio, video, or any other information or signals to a point, or between or among points. The term
8 includes:

9 (i) transmission, conveyance, or routing in which computer processing applications are used to act on
10 the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to
11 whether the service is referred to as voice over internet protocol services or is classified by the federal
12 communications commission as enhanced or value added;

13 (ii) 800 service;

14 (iii) 900 service;

15 (iv) fixed wireless service;

16 (v) mobile wireless service;

17 (vi) paging service;

18 (vii) prepaid calling service;

19 (viii) prepaid wireless calling service;

20 (ix) private communication service; and

21 (x) value-added non-voice data service.

22 (b) The term does not include:

23 (i) data processing and information services that allow data to be generated, acquired, stored,
24 processed, or retrieved and delivered by an electronic transmission to a purchaser for which the purchaser's
25 primary purpose for the underlying transaction is the processed data or information;

26 (ii) installation or maintenance of wiring or equipment on a customer's premises;

27 (iii) tangible personal property;

28 (iv) advertising, including directory advertising;

1 (v) billing and collection services provided to third parties;

2 (vi) internet access service;

3 (vii) radio and television audio and video programming services, regardless of the medium, including
4 the furnishing of transmission, conveyance and routing of such services by the programming service provider.

5 Radio and television audio and video programming services include but are not limited to cable service as
6 defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio
7 service providers, as defined in 47 C.F.R. 20.3;

8 (viii) ancillary services; or

9 (ix) digital products delivered electronically, including but not limited to software, music, video, reading
10 materials, or ring tones.

11 (58) "Transient guest" means a person who resides in a lodging establishment or campground less
12 than 30 consecutive days.

13 (59) "Value-added non-voice data service" means a service that otherwise meets the definition of
14 telecommunications services in which computer processing applications are used to act on the form, content,
15 code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or
16 routing.

17 (60) "Vertical service" means an ancillary service that is offered in connection with one or more
18 telecommunications services, that offers advanced calling features that allow customers to identify callers and
19 to manage multiple calls and call connections, including conference bridging services.

20 (61) (a) "Voice mail service" means an ancillary service that enables the customer to store, send, or
21 receive recorded messages.

22 (b) The term does not include any vertical services that the customer may be required to have in order
23 to utilize the voice mail service.

24

25 **NEW SECTION. Section 2. Determining gross receipts -- conditional sales.** (1) Gross receipts
26 are the total amount of consideration, including cash, credit, property, and services, for which tangible personal
27 property, a product transferred electronically, or services are sold, leased, or rented, valued in money or
28 otherwise, without deduction for:

- 1 (a) the retailer's costs of the property or services sold;
- 2 (b) the cost of materials used, labor or service cost, interest, losses, costs of transportation to the
- 3 retailer, taxes imposed on the retailer, and other expenses of the retailer; or
- 4 (c) charges by the retailer for any services necessary to complete the sale, whether or not separately
- 5 stated, including delivery charges.

6 (2) (a) Gross receipts include consideration received by the retailer from a third party if:

- 7 (i) the retailer actually receives consideration from a party other than the purchaser and the
- 8 consideration is directly related to a price reduction or discount on the sale;
- 9 (ii) the retailer has an obligation to pass the price reduction or discount through to the purchaser;
- 10 (iii) the amount of the consideration attributable to the sale is fixed and determined by the retailer at the
- 11 time of the sale of the item to the purchaser; and
- 12 (iv) one of the following criteria is met:

13 (A) the purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price

14 reduction or discount for which the coupon, certificate, or documentation is authorized, distributed, or granted

15 by a third party with the understanding that the third party will reimburse any retailer to whom the coupon,

16 certificate, or documentation is presented;

17 (B) the purchaser is a member of a group or organization entitled to a price reduction or discount. A

18 preferred customer card that is available to any patron does not constitute membership in such a group.

19 (C) the price reduction or discount is identified as a third-party price reduction or discount on the

20 invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the

21 purchaser.

22 (b) For the purposes of this section, the purchaser is the end consumer.

23 (3) Gross receipts do not include:

- 24 (a) fees or other interest imposed by a retailer for late charges on overdue accounts, no account, or
- 25 nonsufficient funds checks;
- 26 (b) the sales price of property returned by customers if the full sale price is refunded in cash or credit;
- 27 (c) tangible personal property or a product transferred electronically if taken in trade as a credit or
- 28 partial payment for a retail sale taxable under [sections 1 through 44], and the tangible personal property or

1 product transferred electronically taken in trade is subject to the sales tax imposed by [sections 1 through 44]
2 when sold;

3 (d) gross receipts received by a retailer from a manufacturer, wholesaler, or distributor pursuant to a
4 written contract between the retailer and the manufacturer, wholesaler, or distributor that requires the retailer to
5 display the manufacturer, wholesaler, or distributor's product or signage in a specified manner or location;

6 (e) a discount or deferred payment received by a retailer from a distributor, wholesaler, or
7 manufacturer for purchasing a product for sale at retail;

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

10 (g) the charge of interest, except for interest charged by a pawnbroker;

11 (h) any fee or commission received by a retailer for arranging or assisting in the arrangement of a loan
12 for a customer to pay for tangible personal property or a product transferred electronically sold by the retailer;

13 (i) interest, financing, and carrying charges from credit extended on the sale of tangible personal
14 property, a product transferred electronically, or services, if the amount is separately stated on the invoice, bill
15 of sale, or similar document given to the purchaser; or

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

18 (4) For purposes of the tax imposed by [sections 1 through 44], on any sale made under a conditional
19 sales contract, or under other forms of sale for which the payment of the principal sum is extended over a
20 period longer than 60 days from the date of sale, only the portion of the sale amount that has actually been
21 received in cash by the retailer during each reporting period is subject to the tax.

22

23 NEW SECTION. Section 3. Tax on sale of tangible personal property. There is a tax on the
24 privilege of engaging in business as a retailer a tax of 4% percent on the gross receipts of all sales of tangible
25 personal property consisting of goods, wares, or merchandise sold at retail in the state to consumers or users
26 unless specifically exempt under [sections 1 through 44].

27

28 NEW SECTION. Section 4. Tax on products transferred electronically. (1) There is a tax imposed

1 on the gross receipts of all sales, leases, or rentals of a product transferred electronically. The rate of the tax is
2 the same as the rate imposed on sales of tangible personal property provided for in [section 3].

3 (2) The tax is imposed if:

4 (a) the sale is to an end user;

5 (b) the sale is to a person who is not an end user, unless otherwise exempted by [sections 1 through
6 44];

7 (c) the seller grants the right of permanent or less than permanent use of the products transferred
8 electronically; or

9 (d) the sale is conditioned or not conditioned upon continued payment.

10 (3) For purposes of this section, the term "end user" does not include any person who received by
11 contract any product transferred electronically for further commercial broadcast, rebroadcast, transmission,
12 retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part,
13 to another person.

14 (4) For purposes of this section, the term "permanent use" means perpetual or for an indefinite or
15 unspecified length of time.

16 (5) The sale of a digital code that may be utilized to obtain a product transferred electronically is taxed
17 in the same manner as the product transferred electronically. A digital code is a code that permits a purchaser
18 to obtain at a later date a product transferred electronically.

19
20 **NEW SECTION. Section 5. Tax on receipts from business services.** (1) There is imposed a tax
21 on the gross receipts of any business in which a service is rendered. The rate of the tax is the same as the rate
22 imposed on sales of tangible personal property provided for in [section 3].

23 (2) All services defined in [section 1] are taxable, unless the service is specifically exempt from the
24 provisions of [sections 1 through 44].

25 (3) Taxable services include but are not limited to the following services and services provided by:

26 (a) abstracters;

27 (b) accountants;

28 (c) amusement and recreation services including airplane, helicopter, balloon, dirigible and blimp rides

- 1 for amusement or sightseeing;
- 2 (d) ancillary services;
- 3 (e) animal grooming services;
- 4 (f) architects, engineers, or surveyors, except that services purchased by an architect, engineer, or
- 5 surveyor on behalf of a client in the performance of a contractor for the client are considered purchases for
- 6 resale purposes;
- 7 (g) automotive repair and services, garage and service stations, tire recapping, and parking;
- 8 (h) barbers and beauty shops;
- 9 (i) blacksmith shops;
- 10 (j) cable television;
- 11 (k) car washing;
- 12 (l) coating, engraving, and allied services;
- 13 (m) communication services;
- 14 (n) construction, electrical, and industrial services;
- 15 (o) consumer credit reporting agencies, mercantile reporting agencies, and adjustment and collection
- 16 agencies;
- 17 (p) dry cleaning, garment alteration, cleaning and pressing, and laundry, linen and towel supply;
- 18 (q) dyeing;
- 19 (r) exterminators;
- 20 (s) floor laying and other floor work;
- 21 (t) funeral service and cremation service, except that purchases of goods or services with money
- 22 advanced as an accommodation and fees paid or donated for religious ceremonies are not includable in gross
- 23 receipts for funeral services;
- 24 (u) heavy equipment and transport operations, train crew operations, crane operations, drillers, and
- 25 blasters;
- 26 (v) hotels, motels, tourist courts, rooming and boarding houses, and campgrounds and recreational
- 27 vehicle parks subject to [section 11];
- 28 (w) janitorial services and supplies;

- 1 (x) lawn and garden, landscape, and horticultural services, except that chemicals purchased and used
2 for these services are considered purchases for resale;
- 3 (y) legal services;
- 4 (z) livestock slaughtering services;
- 5 (aa) loan brokers;
- 6 (bb) membership or entrance fees for the use of a facility or for the right to purchase tangible personal
7 property, any product transferred electronically, or services;
- 8 (cc) mining, including coal mining, metal mining services, and nonmetallic minerals services;
- 9 (dd) oil and gas field services;
- 10 (ee) photography and photo developing and enlarging;
- 11 (ff) printing trade services and printing press operators;
- 12 (gg) real estate agents and managers, appraiser services, and title services;
- 13 (hh) rentals of tangible personal property, except leases of tangible personal property between one
14 telephone company and another telephone company, motor vehicles as defined in 61-1-101 leased under a
15 single contract for more than 30 days, and mobile homes;
- 16 (ii) research, management, and related services, except noncommercial research organizations;
- 17 (jj) solid waste collection and disposal;
- 18 (kk) specialty cleaners;
- 19 (ll) utility services such as gas, electricity, or water services, including those provided by a local
20 government;
- 21 (mm) welding, locksmith, and repair services, except repair services for farm machinery, attachment
22 units, and irrigation equipment used exclusively for agricultural purposes; and
- 23 (nn) professional employer organization services. A professional employer organization may deduct
24 from its taxable gross receipts its actual disbursements, including appropriate reserves, for the wages, salaries,
25 payroll taxes, payroll deductions, workers' compensation costs, insurance premiums, welfare benefits,
26 retirement benefits, and other employee benefits of its coemployees. The exemption does not apply to
27 temporary help services or to any work arrangement whereby a firm temporarily assigns employees of the firm
28 to support or supplement a client company's regular work force in special situations such as employee

1 absences, temporary skill shortages, seasonal workloads, and special assignments or projects.

2

3 **NEW SECTION. Section 6. Retailer engaged in business of selling tangible personal property,**
4 **services, and products transferred electronically for use in state.** (1) A retailer is engaged in the business

5 of selling tangible personal property, services, or products transferred electronically for use in this state if:

6 (a) (i) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part
7 by, a retailer maintaining a place of business within this state; and

8 (ii) the retailer sells the same or a substantially similar line of products as the related retailer in this
9 state and does so under the same or a substantially similar business name, or the in-state facility or in-state
10 employee of the related retailer is used to advertise, promote, or facilitate sales by the retailer to a consumer; or

11 (b) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by,
12 a business that maintains a distribution house, sales house, warehouse, or similar place of business in this
13 state that delivers property sold by the retailer to consumers.

14 (2) The processing of orders electronically, including by facsimile, telephone, the internet, or other
15 electronic ordering process, does not relieve the retailer of responsibility for collection of the tax from the
16 purchaser if the retailer is doing business in this state.

17 (3) A retailer that is part of a controlled group with a component member that is a retailer engaged in
18 business in this state as described in this section, is presumed to be a retailer engaged in business in this state.
19 This presumption may be rebutted by evidence that during the calendar year at issue the component member
20 that is a retailer engaged in business in this state did not engage in any of the activities described in this section
21 on behalf of the retailer.

22 (4) A retailer making sales of tangible personal property to purchasers in this state by mail, telephone,
23 the internet, or other media that has a contractual relationship with an entity to provide and perform installation,
24 maintenance, or repair services for the retailer's purchasers within this state is considered to be a retailer under
25 the provisions of this section.

26 (5) For purposes of this section:

27 (a) Ownership includes both direct ownership and indirect ownership through a parent, subsidiary, or
28 affiliate.

1 (b) "Substantial ownership interest" means an interest in an entity that is not less than the degree of
2 ownership of equity interest in an entity that is specified by 15 U.S.C. 78p with respect to a person other than a
3 director or officer.

4

5 **NEW SECTION. Section 7. Retail sales include auctions and consignments -- deduction**

6 **allowed.** (1) All auction sales and consignment sales of tangible personal property, any product transferred
7 electronically, and services are sales at retail. The auction clerk shall file the return and remit the tax imposed
8 by [sections 1 through 44] on the gross receipts from each auction after applying the deduction provided for in
9 subsection (3).

10 (2) The auctioneer is responsible for the payment of the tax imposed by [sections 1 through 44] if the
11 auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as required by
12 [sections 1 through 44]. In addition to any other information required to be kept by [sections 1 through 44], each
13 auction clerk shall keep records that identify the owner of the property sold at auction and the auctioneer who
14 conducts the sale of the property.

15 (3) In determining the amount of tax due under [sections 1 through 44], auctioneers may deduct from
16 gross receipts amounts which represent direct expense charges for clients for tangible personal property, any
17 product transferred electronically, or services purchased by the auctioneer on behalf of a client. The sale of the
18 property or service to the auctioneer is not a sale for resale if this deduction is taken. This deduction may only
19 be taken if the amount to be deducted represents an expense specifically incurred for a particular client and the
20 amount is itemized and paid from the client's auction proceeds by the auctioneer or closing agent. The
21 deduction is disallowed if the auctioneer receives any profit or remuneration directly or indirectly from the
22 client's expense.

23

24 **NEW SECTION. Section 8. Sales of sectional homes subject to tax.** (1) Sales of sectional homes

25 are subject to the tax provided for in [section 3].

26 (2) The tax is based on the fair market value of the raw materials used to construct the home.

27

28 **NEW SECTION. Section 9. Tax on intrastate, interstate, or international telecommunications**

1 **services -- exemptions -- bundled transactions.** (1) Except as provided in [section 10] and subsection (2) of
2 this section, there is imposed a tax on the gross receipts from providing any intrastate, interstate, or
3 international telecommunications service that originates or terminates in this state and that is billed or charged
4 to a service address in this state, or that both originates and terminates in this state. The rate of the tax is the
5 same as the rate imposed on sales of tangible personal property provided for in [section 3].

6 (2) The tax imposed by this section does not apply to:

7 (a) an 800 or 800-type service unless the service both originates and terminates in this state;

8 (b) the sale of a telecommunication service to a provider of telecommunication services, including
9 access service, for use in providing a telecommunication service; or

10 (c) the sale of interstate telecommunication service provided to a call center that has been certified by
11 the department to meet the definition of call center in [section 1] if the call center has provided to the
12 telecommunications service provider an exemption certificate issued by the department indicating that it meets
13 the definition. If a call center uses an exemption certificate to purchase services not meeting the definition of
14 [section 1], the call center is liable for the applicable tax, penalty, and interest.

15 (3) If a bundled transaction includes telecommunications services, ancillary services, internet access,
16 or audio or video programming services and the charges are attributable to retail sales that are taxable and
17 retail sales that are nontaxable, the portion of the price attributable to the nontaxable retail sales is subject to
18 tax unless the provider can identify the nontaxable portion by reasonable and verifiable standards from its
19 books and records kept in the regular course of business.

20 (4) For the purposes of this section:

21 (a) (i) "Bundled transaction" means the retail sale of two or more distinct and identifiable products sold
22 for one nonitemized price.

23 (ii) The term does not include:

24 (A) a transaction that includes the retail sale of real property or services to real property;

25 (B) a transaction that includes the retail sale of any products in which the gross receipts varies, or is
26 negotiable, based on the selection by the purchaser of the products included in the transaction;

27 (C) a transaction that includes the retail sale of tangible personal property and a service for which the
28 tangible personal property is essential to the use of the service, and is provided exclusively in connection with

1 the service, and the true object of the transaction is the service;

2 (D) a transaction that includes the retail sale of any product transferred electronically and a service for
3 which the product transferred electronically is essential to the use of the service, and is provided exclusively in
4 connection with the service, and the true object of the transaction is the service;

5 (E) a transaction that includes the retail sale of services for which one service is provided that is
6 essential to the use or receipt of a second service and the first service is provided exclusively in connection with
7 the second service and the true object of the transaction is the second service;

8 (F) a transaction that includes the retail sale of taxable products and nontaxable products and the
9 purchase price or gross receipts of the taxable products is de minimis; or

10 (G) a transaction that includes the retail sale of exempt tangible personal property and taxable tangible
11 personal property for which:

12 (I) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility
13 enhancing equipment, or prosthetic devices, or over-the-counter drugs or medical supplies; and

14 (II) the retailer's purchase price or gross receipts of the taxable tangible personal property is fifty
15 percent or less of the total purchase price or gross receipts of the bundled tangible personal property. No
16 retailer may use a combination of the purchase price and gross receipts of the tangible personal property when
17 making the fifty percent determination for a transaction.

18 (b) "Distinct and identifiable products" do not include:

19 (i) packaging, including containers, boxes, sacks, bags, bottles, wrapping, labels, tags, and instruction
20 guides, that accompany the retail sale of the product and are incidental or immaterial to the retail sale;

21 (ii) a product provided free of charge with the required purchase of another product, if the sales price of
22 the product purchased does not vary depending on the inclusion of the product provided free of charge; or

23 (iii) items included in gross receipts.

24 (c) "One nonitemized price" does not include a price that is separately identified by product on binding
25 sales or other supporting sales-related documentation made available to the customer in paper or electronic
26 form including an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of
27 rates and services, rate card, or price list.

28

1 **NEW SECTION. Section 10. Tax on certain mobile telecommunications services.** (1) There is
 2 imposed a tax on the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. 124, that
 3 originate and terminate in the same state and are billed to a customer with a place of primary use in this state
 4 or are deemed to have originated or been received in this state and to be billed or charged to a service address
 5 in this state if the customer's place of primary use is located in this state regardless of where the service
 6 actually originates or terminates. The rate of the tax is the same as the rate imposed on sales of tangible
 7 personal property provided for in [section 3].

8 (2) Notwithstanding any other provision of [sections 1 through 44] and for purposes of the tax imposed
 9 by this section, the tax imposed upon mobile telecommunication services must be administered in accordance
 10 with 4 U.S.C. 116 through 4 U.S.C. 126.

12 **NEW SECTION. Section 11. Tax on room or parking site rentals to transient guests --**
 13 **exemption.** (1) There is imposed a tax on the gross receipts from rentals of rooms or parking sites by lodging
 14 establishments or campgrounds received from transient guests. The rate of the tax is the same as the rate
 15 imposed on sales of tangible personal property provided for in [section 3].

16 (2) The provisions of this section do not apply to the casual or occasional rental of a sleeping
 17 accommodation or camping site. For the purposes of this section, casual or occasional is the rental of a
 18 sleeping accommodation or camping site by any establishment or campground for 10 or fewer days in a
 19 calendar year. Any establishment or campground that has a permit or license issued under [sections 1 through
 20 44], is not offering the rental of sleeping accommodations or camping sites on a casual or occasional basis.

21 (3) Gross receipts from membership fees paid to any lodging house and hotel membership
 22 organization operated for the benefit of its members are exempt from the taxes provided for in [sections 1
 23 through 44]. The exemption does not apply to a membership fee that represents payment for tangible personal
 24 property, a product transferred electronically, or services provided by the membership organization.

26 **NEW SECTION. Section 12. Tax on admission to amusements and athletic contests or events.**
 27 Except as otherwise provided in [sections 1 through 44], there is imposed a tax on the gross receipts from all
 28 sales of tickets or admissions to places of amusement, athletic contests or events, and rodeos and rodeo-

1 related activities and events. The rate of the tax is the same as the rate imposed on sales of tangible personal
2 property provided for in [section 3].

3
4 **NEW SECTION. Section 13. Tax on passenger transportation.** (1) Except as provided in
5 subsection (2), there is imposed a tax on the gross receipts from any transportation of passengers if the
6 passenger boards and exits the mode of transportation within this state. The rate of the tax is the same as the
7 rate imposed on sales of tangible personal property provided for in [section 3].

8 (2) The tax does not apply to any transportation service which the state is prohibited from taxing by
9 federal law or the United States Constitution.

10
11 **NEW SECTION. Section 14. Exemption of sales to United States, states, local governments,**
12 **charities, and Indian tribes.** There are exempted from the provisions of [sections 1 through 44] and from the
13 computation of the amount of tax imposed by it, the gross receipts from sales of tangible personal property, any
14 product transferred electronically, and services to:

15 (1) the United States;

16 (2) the state of Montana or to any other state of the United States or the District of Columbia if the
17 other state provides a reciprocal exemption for Montana;

18 (3) an incorporated city or town, a county, or a consolidated city-county government of the state of
19 Montana or of any other state of the United States or the District of Columbia if the other state provides a
20 reciprocal exemption to Montana incorporated cities or towns, counties, or consolidated city-county
21 governments;

22 (4) a nonprofit corporation created for the purpose of fire protection that is controlled by any political
23 subdivision of this state;

24 (5) a nonprofit charitable organization maintaining a physical location within this state that devotes its
25 resources exclusively to the relief of the poor, distressed or underprivileged, and has been recognized as an
26 exempt organization under 26 U.S.C. 501(c)(3); or

27 (6) any tribal government.
28

1 **NEW SECTION. Section 15. Exemption of sales to educational institutions and hospital.** (1)

2 There are exempted from the provisions of [sections 1 through 44] and from the computation of the amount of
3 tax imposed by it, the gross receipts from sales of tangible personal property, any product transferred
4 electronically, and services to and for use by a qualified education provider or nonprofit, charitable hospital
5 when purchases are made by authorized officials, payment made from the institution funds, and title to the
6 property retained in the name of the institution.

7 (2) This exemption does not extend to sales or purchases of tangible personal property or any product
8 transferred electronically for the personal use of officials, members, or employees of the institutions or to sales
9 to or purchases of tangible personal property or any product transferred electronically used in the operation of a
10 taxable retail business.

11 (3) Each institution claiming the exemption must maintain a list of all purchases on which the
12 exemption was claimed, fully itemized, showing the name and address of vendors, description of property
13 purchased, date or dates of purchase, purchase price, and a brief explanation of the use or intended use.

14 (4) For purposes of this section, "qualified education provider" has the meaning provided in 15-30-
15 3102.

17 **NEW SECTION. Section 16. Exempt tangible personal property and products transferred**

18 **electronically.** Gross receipts from the sale of the following are exempt from the tax provided for in [sections 1
19 through 44]:

20 (1) the sale, resale, or leasing of farm machinery, attachment units, and irrigation equipment used
21 exclusively for agricultural purposes. Farm machinery includes all-terrain vehicles of three or more wheels used
22 exclusively by the purchaser for agricultural purposes on agricultural land. The purchaser shall sign and deliver
23 to the seller a statement that the all-terrain vehicle will be used exclusively for agricultural purposes.

24 (2) seed legumes, seed grasses, and seed grains, when 25 pounds or more are sold in a single sale to
25 be used exclusively for agricultural purposes;

26 (3) commercial fertilizers, either liquid or solid, when 500 pounds or more are sold in a single sale to be
27 used exclusively for agricultural purposes:

28 (4) pesticides to be used exclusively by the purchaser for agricultural purposes. Any product or

1 substance to be used in conjunction with the application or use of pesticides for agricultural purposes is also
2 exempt. The products or substances include adjuvants, surfactants, ammonium sulfate, inoculants, drift
3 retardants, water conditioners, seed treatments, foam markers, and foam dyes. Equipment for the application of
4 pesticides and related products and substances is not exempt except farm machinery, attachment units, and
5 irrigation equipment used exclusively for agricultural purposes.

6 (5) livestock or live poultry, ostriches, emus, or rheas, if the sales are a part of a series of transactions
7 incident to producing a finished product intended to be offered for an ultimate retail sale, except that an ultimate
8 retail sale interrupting the series of transactions with an intended final use or consumption is taxable;

9 (6) live gamebirds sold by the producer to nonprofit organizations that release the birds or to
10 commercial hunting operators who charge fees to hunt the birds;

11 (7) live cattle, buffalo, sheep, goats, swine, poultry, ostriches, emus, rheas, and domesticated fur-
12 bearing animals, used or to be used as breeding or production stock, and horses and other animals within the
13 family equidae. Poultry does not include any fowl other than domestic fowl kept and raised for the market or the
14 production of eggs for human consumption.

15 (8) feed and bedding for cattle, buffalo, sheep, goats, swine, pheasants, partridges, quail, poultry,
16 ostriches, emus, rheas, and domesticated fur-bearing animals, and horses and other animals within the family
17 Equidae, if the feed or bedding is used by farmers or ranchers who are regularly engaged in the business of
18 raising and feeding the animals or producing milk for sale for human consumption. Bedding includes only straw,
19 corn stover, and bean straw.

20 (9) live nondomestic animals and feed for the animals if the animal is to be used by a farmer or rancher
21 who is regularly engaged in the breeding and raising of the animals;

22 (10) swine semen and cattle semen to be used for agricultural purposes;

23 (11) parts and repair services on farm machinery, attachment units, and irrigation equipment used
24 exclusively for agricultural purposes that are exempt from the tax imposed by [sections 1 through 44], if the part
25 replaces a farm machinery, attachment unit, or irrigation equipment part assigned a specific or generic part
26 number by the manufacturer of the farm machinery, attachment unit, or irrigation equipment;

27 (12) maintenance items and maintenance services used on farm machinery, attachment units, and
28 irrigation equipment used exclusively for agricultural purposes that are exempt from the tax imposed by

1 [sections 1 through 44];

2 (13) agricultural and industrial production equipment in international commerce if, under the terms of
3 the sales agreement, physical delivery of the goods takes place in Montana. The exemption applies only if
4 written evidence of the contract of sale is retained, and the contract indicates that the goods are to be shipped
5 in international commerce to a point outside the United States not to be returned to a point within the United
6 States.

7 (14) motor vehicles and motorboats subject to registration fees under Title 61, chapter 3, part 3;

8 (15) gasoline, motor fuel, and special fuel subject to tax under Title 15, chapter 70;

9 (16) tangible personal property or products transferred electronically that this state is prohibited from
10 taxing under the constitution or laws of the United States or the constitution or laws of the state of Montana;

11 (17) tangible personal property or products transferred electronically to a person who leases the
12 property to a person in this state;

13 (18) freeport merchandise and stocks of merchandise brought as foreign or domestic merchandise into
14 a foreign trade zone. The exemption applies only if written evidence of the contract of sale is retained, and the
15 contract indicates that the merchandise is to be shipped in international commerce to a point outside the United
16 States not to be returned to a point within the United States.

17 (19) the handling fee paid by a religious organization recognized as an exempt organization under
18 section 501(c)(3) of the Internal Revenue Code to an approved relief agency recognized as an exempt
19 organization pursuant to [section 14] for the distribution of food that is used for the assistance or relief to the
20 poor, distressed, or underprivileged through a food giveaway program;

21 (20) furnishing goods or services to the purchaser or the purchaser's successor in interest of tangible
22 personal property or product transferred electronically to fulfill a warranty obligation of the manufacturer to the
23 extent that the goods or services are not charged to the purchaser or the purchaser's successor in interest;

24 (21) lottery tickets for a lottery operated by the state;

25 (22) library copying charges;

26 (23) ink and newsprint when used in the production of shoppers' guides;

27 (24) raw materials and newspaper print that become a part of other tangible personal property by
28 means of fabrication, compounding, or manufacture for retail sale within or without the state of Montana;

1 (25) paper and plastic bags, wrapping paper, twine, tape, and similar articles sold to retailers licensed
2 under [sections 1 through 44] if the retailer uses the articles as wrappers or containers to hold other tangible
3 personal property sold by the retailer and subject to sales or use tax and the articles are supplied free by the
4 retailer as a convenience to the customer;

5 (26) meals provided to inpatients of hospitals if the meals are paid for, by law or by contract, by the
6 United States, this state or a political subdivision, including but not limited to, meals provided to medicare,
7 medicaid, or Indian health service patients;

8 (27) purchases made with benefits provided by the supplemental nutrition assistance program
9 provided for in 7 U.S.C. 51 and the special nutrition program for women, infants, and children provided for in 42
10 U.S.C. 1786;

11 (28) electricity used to power irrigation pumps whenever the purchaser has made the purchase
12 exclusively for agricultural purposes;

13 (29) bulk water delivered for domestic use;

14 (30) replacement parts that are sold to retailers and that will be installed in tangible personal property
15 that will ultimately be for resale;

16 (31) carpet, floor covering, tacks, glue, and other materials purchased for use by those providing floor
17 laying and other floor work services;

18 (32) locks, lock parts, and other materials purchased for use by locksmiths; and

19 (33) coins, currency, or bullion.

20

21 **NEW SECTION. Section 17. Exempt services.** (1) The following services are exempt from the
22 provisions of [sections 1 through 44]:

23 (a) advertising services;

24 (b) agricultural services except veterinarian services and animal specialty services;

25 (c) air transportation, including certified carriers and noncertified carriers, except chartered flights and
26 airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing;

27 (d) architectural, engineering, and surveying services rendered for a project entirely outside this state;

28 (e) credit counseling services provided by individual and family social services;

- 1 (f) credit services by credit bureaus to financial institutions;
- 2 (g) commissions earned or service fees paid by an insurance company to an agent or representative
- 3 for the sale of a policy;
- 4 (h) commissions or fees received for rendering a service that provides for the sale of tangible personal
- 5 property, a product transferred electronically, or services, unless otherwise specifically subject to tax;
- 6 (i) commodity contracts brokers and dealers;
- 7 (j) construction services except floor laying and other floor work and locksmiths and locksmith shops;
- 8 (k) consumer credit reporting agencies, mercantile reporting agencies, and adjustment and collection
- 9 agencies, if the debt was incurred out-of-state and the client does not reside within the state;
- 10 (l) credit card processing services to retailers;
- 11 (m) direct mail service for the cost of United States postage paid by the direct mail service if the cost of
- 12 postage, including any markup that is reasonable and customary in the seller's industry, is listed by the direct
- 13 mail service as a separate line item on the customer's bill;
- 14 (n) educational services, except schools and educational services not elsewhere classified, and
- 15 continuing education programs and tutoring;
- 16 (o) farm product warehousing and storage;
- 17 (p) financial services of financial institutions as defined in 32-6-103, including loan origination fees, late
- 18 payment charges, nonsufficient fund check charges, stop payment charges, safe deposit box rent, exchange
- 19 charges, commission on travelers checks, charges for administration of trusts, interest charges, and points
- 20 charged on loans;
- 21 (q) forestry services;
- 22 (r) health services;
- 23 (s) local and suburban passenger transportation except limousine services;
- 24 (t) motion picture rentals to a commercially operated theater primarily engaged in the exhibition of
- 25 motion pictures;
- 26 (u) motor vehicle rentals leased under a single contract for more than 30 days. Motor vehicle has the
- 27 meaning provided in 15-68-101.
- 28 (v) natural gas transportation services by a pipeline;

- 1 (w) officiating of amateur sporting events, except officiating a sporting event sponsored and operated
2 by an elementary, secondary, or postsecondary school;
- 3 (x) passenger transportation arrangement;
- 4 (y) pipelines, except natural gas pipelines;
- 5 (z) radio and television broadcasting;
- 6 (aa) railroad transportation and rental of railroad cars;
- 7 (bb) rental of devices for fertilizer and pesticide application;
- 8 (cc) rental of devices used primarily for agricultural purposes if the devices are owned by a
9 conservation district provided for in Title 76, chapter 15;
- 10 (dd) school buses;
- 11 (ee) security brokers, dealers, and flotation companies;
- 12 (ff) services performed for rodeos by promoters, stock contractors, stock handlers, announcers, judges,
13 and clowns;
- 14 (gg) services provided by any corporation to another corporation that is centrally assessed having
15 identical ownership and services provided by any corporation to a wholly owned subsidiary that is centrally
16 assessed;
- 17 (hh) sewerage systems;
- 18 (ii) social services including individual and family services, job training and vocational rehabilitation
19 services, child day care services, and residential care services;
- 20 (jj) stock and commodity brokers and agents;
- 21 (kk) trading stamps sales;
- 22 (ll) transportation of freight and cargo arrangement;
- 23 (mm) transportation on rivers and canals;
- 24 (nn) trucking and courier services, except air and collection and disposal of solid waste;
- 25 (oo) water supply; and
- 26 (pp) water system services including management, billing, bookkeeping, administrative, and related
27 services provided to a rural water system by any cooperative or nonprofit corporation that is wholly owned by
28 the water systems receiving the services.

1 (2) The exemptions from sales tax provided for in [section 16] also apply to services.

2

3 **NEW SECTION. Section 18. Exemption of receipts used for civic and nonprofit associations**

4 **and purposes.** Gross receipts from the following are exempt from the tax provided in [sections 1 through 44]:

5 (1) sales of tickets or admissions to the grounds and grandstand attractions of state, county, district,
6 regional, and local fairs;

7 (2) admissions to nonprofit historic sites and repertory theater performances operated by nonprofit
8 organizations;

9 (3) admissions to community operated celebrations and shows sponsored by a chamber of commerce
10 or other similar nonprofit organization if the county or municipality in which the activity takes place officially
11 sponsors the activity and no charge is made to the operators of the celebration or show for the use of county,
12 city or town facilities or services;

13 (4) admissions to events or receipts from activities sponsored and operated by colleges or vocational
14 schools or elementary or high schools or related clubs or supporting organizations approved or supervised by a
15 school or college when the entire net proceeds are spent for educational purposes and any associations of
16 them and receipts from tangible personal property or any product transferred electronically sold at the events.
17 Receipts from tangible personal property or any product transferred electronically sold at the events or activities
18 are included in the measure of sales tax at the time of purchase by the college or school or related club or
19 supporting organization;

20 (5) religious, benevolent, fraternal, youth association or charitable activities, including any bingo or
21 lottery exempt under 23-5-406, for which the entire amount of the receipts after deducting all costs directly
22 related to the conduct of the activities is expended for religious, benevolent, fraternal, youth association or
23 charitable purposes, and, except for any bingo or lottery, the receipts are not the result of engaging in business
24 for more than 3 consecutive days. For the purposes of determining whether the business has been engaged in
25 for more than 3 days, days necessary to set up, organize, prepare for, take down, or disassemble the business
26 or activity are not days engaged in business. Receipts from tangible personal property, any product transferred
27 electronically, or services purchased for use in the activity are included in the measure of sales tax;

28 (6) sales of tangible personal property or any product transferred electronically when the net receipts

1 are used primarily for the restoration or maintenance of the governor's mansion and capitol grounds;

2 (7) a charge or entry fee for engaging in participatory events limited to tournaments, contests and
3 league activities. Receipts from tangible personal property, any product transferred electronically, or services
4 purchased for use in tournaments, contests and league activities must be included in the measure of the tax
5 imposed by [sections 1 through 44];

6 (8) admissions to events or receipts from activities sponsored and operated by county or municipal
7 historical societies or centennial committees when the entire net proceeds are spent for centennial celebration
8 purposes. Receipts from tangible personal property, any product transferred electronically, or services
9 purchased for use in the activity are included in the measure of sales tax;

10 (9) religious, benevolent, fraternal, youth association or charitable activities conducted at county fairs,
11 if the entire amount of the receipts after deducting all costs directly related to the conduct of the activities is
12 expended for religious, benevolent, fraternal, youth association or charitable purposes, and the receipts are not
13 the result of engaging in business for more than 5 consecutive days. Receipts from tangible personal property,
14 any product transferred electronically, or services purchased for use in the activity are included in the measure
15 of sales tax;

16 (10) admissions to circus performances sponsored or operated by religious, benevolent, fraternal or
17 youth associations, if the entire amount of the receipts after deducting all costs directly related to the conduct of
18 the circus performances is expended for religious, benevolent, fraternal, youth associations or charitable
19 purposes; and

20 (11) admissions to events or receipts from activities sponsored and operated by religious, benevolent,
21 or charitable organizations for a period not to exceed 30 days in any calendar year, if the entire amount of the
22 receipts after deducting all costs directly related to the conduct of the event or activity is expended for the
23 benefit of homeless persons.

24
25 **NEW SECTION. Section 19. Exemption of membership organizations.** (1) Membership
26 organizations are exempt from the tax imposed by [sections 1 through 44] on receipts from membership fees
27 and from sales of services by the organization. The exemption does not apply to the tax imposed on the gross
28 receipts of sales of tangible personal property or a product transferred electronically by the organization.

1 (2) This section does not exempt the gross receipts of a retailer for sales to a membership organization
2 or exempt the organization from payment of use tax on goods and services used in the conduct of their
3 activities.

4 (3) For purposes of this section, membership organizations include business associations, professional
5 membership organizations, labor unions and similar labor organizations, political organizations, religious
6 organizations, and civic, social, and fraternal associations.

7
8 **NEW SECTION. Section 20. Exemption of certain drugs, medical equipment, and medical**

9 **devices.** (1) There are exempted from the provisions of [sections 1 through 44] and from the computation of
10 the amount of tax imposed by it, gross receipts from the sale of:

11 (a) any medical device, as that term is defined in this section, used by humans, if the medical device is
12 prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist;

13 (b) drugs used by humans if the drugs are prescribed by prescription, dispensed, or administered by a
14 physician, chiropractor, optometrist, dentist, podiatrist, or audiologist;

15 (c) durable medical equipment, mobility enhancing equipment, and prosthetic devices used by
16 humans, if the durable medical equipment, mobility enhancing equipment, and prosthetic devices are
17 prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist; and

18 (d) insulin used by humans that is not sold by prescription.

19 (2) (a) The term "medical device" means any instrument, apparatus, implement, contrivance, or other
20 similar or related article, including a component, part, or accessory, that is prescribed for use on a single patient
21 and that is:

22 (i) recognized in the official national formulary, or the United States pharmacopoeia, or any supplement
23 to them;

24 (ii) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment,
25 detection, or prevention of disease, of the human body; or

26 (iii) intended to affect the structure or any function of the human body, and that does not achieve any of
27 its primary intended purposes through chemical action within or on the human body and that is not dependent
28 upon being metabolized for the achievement of any of its primary intended purposes.

1 (b) A medical device does not include durable medical equipment, mobility enhancing equipment, or a
2 prosthetic device.

3
4 **NEW SECTION. Section 21. Exemption of gaming proceeds.** There are exempted from the
5 provisions of [sections 1 through 44] and from the computation of the tax imposed by it gross proceeds of the
6 state lottery and sports wagering provided for in Title 23, chapter 7.

7
8 **NEW SECTION. Section 22. Exemption for fuel used for agricultural or railroad purposes.** (1)
9 Motor fuel, including kerosene, tractor fuel, liquefied petroleum gas, natural and artificial gas, diesel fuels, and
10 distillate, when used for agricultural or railroad purposes, is exempt from the tax imposed by [sections 1 through
11 44].

12 (2) For the purpose of this section, agricultural purposes does not include the lighting or heating of a
13 farm residence.

14 (3) For the purpose of this section, railroad purposes includes only locomotives or track motor cars
15 being operated on railroad tracks in road service in this state.

16
17 **NEW SECTION. Section 23. Exemption of fair market value of personal property or service**
18 **given without charge to exempt organization.** There are specifically exempted from the provisions of
19 [sections 1 through 44] and the computation of the tax imposed by it, the fair market value of any tangible
20 personal property, product transferred electronically, or service given without charge to an institution,
21 organization, or group exempt from the tax imposed by [sections 1 through 44].

22
23 **NEW SECTION. Section 24. Exemption of payments between members of a controlled group.**
24 (1) Payments made by one member of a controlled group to another member of a controlled group that
25 represent an allocation, reimbursement, or charge for services provided by or rendered by the members of the
26 controlled group are specifically exempt from the provisions of [sections 1 through 44] and the computation of
27 the taxes imposed by it. The exemption provided in this section does not apply to the lease of tangible personal
28 property or any product transferred electronically unless the sales or use tax has been paid on the property by

1 the lessor.

2 (2) Payments made by one member of a controlled group to another member of a controlled group that
3 represent an allocation, reimbursement or charge for third-party services rendered to the controlled group and
4 on which a sales or use tax has been paid may not be considered as gross receipts under [sections 1 through
5 44].

6 (3) There are specifically exempted from the provisions of [sections 1 through 44] and the computation
7 of the tax imposed by it, gross receipts from the sale of services rendered by a related corporation for use by a
8 financial institution or on any service rendered by a financial institution for use by a related corporation. For the
9 purposes of this subsection, the term, related corporation, includes a corporation that together with the financial
10 institution is part of a controlled group of corporations as defined in 26 U.S.C. 1563, except that the 80%
11 ownership requirements set forth in 26 U.S.C. 1563(a)(2)(A) for a brother-sister controlled group are reduced to
12 51%. The exemption provided in this section does not apply to the lease of tangible personal property or any
13 product transferred electronically unless the sales or use tax has been paid on the property by the lessor.

14
15 **NEW SECTION. Section 25. Exemption for small sales by minors.** [Sections 1 through 44] do not
16 apply to any person under 18 years old with gross receipts totaling less than \$1,000 in any calendar year from
17 any sale of tangible personal property, any service delivered, or any product or service transferred electronically
18 for use in the state.

19
20 **NEW SECTION. Section 26. Tax additional to other occupation and privilege taxes.** The taxes
21 imposed under [sections 1 through 44] are in addition to all other occupation or privilege taxes imposed by the
22 state of Montana, or by any incorporated city or town, county, consolidated city-county government, tribal
23 government, or political subdivision unless otherwise specifically exempted by [sections 1 through 44].

24
25 **NEW SECTION. Section 27. Addition of tax to price of product or service.** (1) A retailer may add
26 the tax imposed by [sections 1 through 44] to the price of the product or service as provided by law. If no
27 provision is made, the average equivalent of the tax may be added.

28 (2) Any person or retailer subject to taxation under [sections 1 through 44] may add the tax under

1 [sections 1 through 44], or the average equivalent thereof, to the price or charge.

2

3 **NEW SECTION. Section 28. Application for retailer permit.** (1) A retailer or person engaging
4 in a business in this state whose receipts are subject to the tax imposed by [sections 1 through 44] shall file
5 with the department an application for a permit. The application must be made on a form prescribed by the
6 department and must require the name under which the applicant transacts or intends to transact business, the
7 location of each business, and other information the department may require.

8 (2) The applicant must have a permit for each place of business, unless the department grants a
9 request for a statewide permit. The department may grant a statewide permit if the applicant demonstrates the
10 ability to comply with the filing, auditing, and record-keeping requirements specified in rules adopted pursuant
11 to [section 43] for each location specified in the application.

12 (3) A seller registering under the agreement as defined in [section 91] must be registered in this state,
13 provided the state has entered into the agreement as provided in [section 95]. Any seller
14 who is registered under the agreement may cancel its registration at any time, but is liable for remitting any
15 sales tax previously collected.

16

17 **NEW SECTION. Section 29. Issuance of retailer permit.** Except as provided in [section 30],
18 the department shall grant and issue to each applicant a permit for each place of business within the state,
19 unless a statewide permit is granted. If a statewide permit is granted, the department shall issue a copy of the
20 statewide permit for each place of business within the state. A permit is not assignable and is valid only for the
21 person in whose name it is issued and for the transaction of business at the place designated. The permit must
22 at all times be conspicuously displayed at the place of business. The permit is valid and effective without further
23 payment of fees until canceled or revoked.

24

25 **NEW SECTION. Section 30. Refusal of permit to delinquent taxpayer.** The department may
26 refuse to issue a permit to any person who is delinquent in payment of taxes levied by the state of Montana.
27 The department may require an applicant to furnish a bond to the state, or other adequate security, as security
28 for payment of any sales tax that may become due or require a bond or security as a condition precedent to

1 remaining in business as a retailer.

2

3 **NEW SECTION. Section 31. Filing return and remitting payment -- penalty.** (1) A person who
4 holds a license issued pursuant to [sections 1 through 44] or who is a person whose receipts are subject to the
5 tax imposed by [sections 1 through 44] shall, except as otherwise provided in this section, file a return, and pay
6 any tax due, to the department on or before the 20th day of the month following each monthly period. The
7 return must be filed on forms prescribed and furnished by the department.

8 (2) If the person remits the tax by electronic transfer to the state, the person shall file the return by
9 electronic means on or before the 20th day of the month following each period and remit the tax on or before
10 the 25th day of the month following each period.

11 (3) The department may require or allow a person to file a return, and pay any tax due, on a basis
12 other than monthly. The return and remittance is due the 20th day of the month following the reporting period or
13 at a time otherwise determined by the department.

14 (4) If a person fails to file a return on or before the due date or fails to pay a tax on or before a due
15 date, the person is subject to the penalty and interest provisions of 15-1-216.

16

17 **NEW SECTION. Section 32. Collection allowance credit for collecting tax.** (1) (a) A person
18 required to file a return and remit the tax imposed by [sections 1 through 44], who holds a license issued
19 pursuant to [sections 1 through 44], who timely files the return due, and who timely remits the tax due, is
20 allowed, as compensation for the expense of collecting and paying the tax, a credit equal to 1.5% of the gross
21 amount of the tax due. The credit may not exceed \$70 per return period.

22 (b) If a person is required to file a return and to remit tax more than once within a 30-day period, the
23 collection allowance credit may not exceed \$70 for all returns filed and all remittances made within the 30-day
24 period.

25 (2) The collection allowance credit authorized by this section only applies to taxes reported on the sales
26 and use tax return, including the taxes imposed by [sections 1 through 44, 45 through 89, and 117 through
27 124].

28 (3) The collection allowance credit authorized by this section may only be granted to a person who

1 timely files the return due by electronic means and who timely remits the tax due by electronic means.

2 (4) For any tax collected by the department on behalf of another entity, upon which the collection
3 allowance credit is calculated, the entities shall negotiate in good faith to share in the payment of the collection
4 allowance credit. The department may implement an allocation of collection allowance credit directly or through
5 the adjustment of any administrative fee charged to the entity.

6 (5) A person who has selected a certified service provider as defined in [section 91] is entitled
7 to the collection allowance credit authorized by this section if the certified service provider receives a monetary
8 allowance as provided by the streamlined sales and use tax agreement authorized by [sections 90 through 102]
9 for performing the retailer's sales and use tax functions in this state.

10 (6) A collection allowance credit may not be granted to any person who has outstanding tax returns due
11 to the department or who has outstanding tax remittances due to the department.

12
13 **NEW SECTION. Section 33. Deduction for bad debts.** (1) A bad debt may be deducted on the
14 return for the period during which the bad debt is written off as uncollectible in the retailer's books and records
15 and is eligible to be deducted for federal income tax purposes. For purposes of this section, a retailer who is not
16 required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the
17 bad debt is written off as uncollectible in the retailer's books and records and would be eligible for a bad debt
18 deduction for federal income tax purposes if the retailer was required to file a federal income tax return. If a
19 deduction is taken for a bad debt and the retailer subsequently collects the debt in whole or in part, the tax on
20 the amount collected must be paid and reported on the next return due after the collection. A retailer may
21 allocate its bad debts among states if the books and records of the retailer claiming the bad debt can support
22 the allocation.

23 (2) (a) For purposes of this section, bad debt has the meaning provided in 26 U.S.C. 166, and is any
24 portion of the purchase price of a transaction that a retailer has reported as taxable and for which the retailer or
25 any party related to the retailer within the meaning of section 267 or 707 of the Internal Revenue Code, or any
26 disregarded entity for federal income tax purposes that is owned by the retailer or a related party, has written off
27 as uncollectible for federal income tax purposes.

28 (b) In computing the amount of tax due, a seller may deduct bad debts from the total amount upon

1 which the tax is calculated for any return. Any deduction taken or refund paid that is attributed to bad debts may
 2 not include interest. Bad debts include worthless checks, worthless credit card payments, and uncollectible
 3 credit accounts. Bad debts do not include financing charges or interest, sales or use taxes charged on the
 4 purchase price, uncollectible amounts on property that remains in the possession of the retailer until the full
 5 purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to unrelated
 6 third parties for collection, and repossessed property. No bad debt deduction may be claimed by any person
 7 that has purchased accounts receivable for collection unless the person is a successor that has acquired the
 8 entire business of the retailer that incurred the bad debt, the person is a related party, or the person is a
 9 disregarded entity for federal income tax purposes that is owned by the seller or a related party.

10 (3) If a retailer's amount of bad debt exceeds the amount of taxable sales for the period during which
 11 the bad debt is written off, the seller may obtain a credit or refund of tax on any amount of bad debt. A credit or
 12 refund under this paragraph may not include interest.

13 (4) If a retailer's filing responsibilities have been assumed by a certified service provider as defined in
 14 [section 91], the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this
 15 section. The service provider shall credit or refund the full amount of any bad debt allowance or refund received
 16 to the retailer.

17
 18 **NEW SECTION. Section 34. Cash basis reporting and payment.** (1) Notwithstanding other
 19 provisions of [sections 1 through 44], the department shall allow retailers to report and pay sales tax measured
 20 by gross receipts on a cash basis if:

- 21 (a) the retailer has not changed its basis in the previous calendar year;
- 22 (b) the retailer's records are kept in a manner that may be audited to determine whether sales tax is
 23 paid upon all taxable sales;
- 24 (c) the retailer has made a written request to the department for authority to pay tax on the cash basis;
 25 and
- 26 (d) authority to pay tax on the cash basis applies only to sales made after the authority is granted.

27 (2) If the department has granted a retailer the authority to report and pay sales tax on the cash basis
 28 and a retailer requests in writing the authority to report and pay sales tax on the accrual basis, the department

1 may grant the authority if assessment and collection of taxes are not jeopardized.

2

3 NEW SECTION. Section 35. Jeopardy assessment of sales tax. If the department believes that the
4 assessment or collection of taxes will be jeopardized by delay, the department may immediately make an
5 assessment of the estimated tax and penalty, and demand payment from the taxpayer. If the payment is not
6 made, the department may file a lien and issue a distress warrant. The department may accept a bond from the
7 taxpayer to satisfy collection until the amount of tax legally due is determined and paid.

8

9 NEW SECTION. Section 36. Records of persons subject to tax -- inspection by department. A
10 person subject to tax under [sections 1 through 44] shall keep records and books of all receipts and sales,
11 together with invoices, bills of lading, copies of bills of sale, and other pertinent papers and documents. The
12 books and records and other papers and documents are, at all times during business hours of the day, subject
13 to inspection by the department to determine the amount of tax due. The books and records must be preserved
14 for a period of 3 years unless the department, in writing, authorizes their destruction or disposal at an earlier
15 date.

16

17 NEW SECTION. Section 37. Temporary vendors -- violation. (1) A temporary vendor shall
18 maintain, for a minimum of 3 years, inventory records, including a beginning inventory of merchandise. The
19 vendor shall provide records for immediate inspection and review to any agent or representative of the
20 department upon request.

21 (2) A temporary vendor shall maintain daily sales receipts, such as cash register tapes, handwritten
22 receipts, credit card receipts, or other receipts, for a minimum of 3 years. The vendor shall provide the receipts
23 for immediate inspection and review to any agent or representative of the department upon request.

24 (3) A temporary vendor shall maintain for a minimum of 3 years, a complete list of suppliers, including
25 names and addresses. The vendor shall provide the list for immediate inspection and review to any agent or
26 representative of the department upon request.

27 (4) A temporary vendor operating in this state may be subjected to reviews and audits without notice.

28 (5) The department shall revoke the temporary license of any person that fails to comply with the

1 provisions of this section.

2 (6) Failure to comply with this section is a misdemeanor.

3

4 **NEW SECTION. Section 38. Personal liability of officers, managers, or partners of entity failing**
5 **to file returns or pay tax.** (1) If a corporation, limited liability company, limited partnership, limited liability
6 partnership, or limited liability limited partnership subject to tax under [sections 1 through 44] fails for any
7 reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or
8 managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with
9 the responsibility of filing the returns or remitting tax payments are personally liable for the failure.

10 (2) The dissolution of a corporation, limited liability company, limited partnership, limited liability
11 partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or
12 partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability
13 partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for a liability
14 may be assessed and collected as provided by law.

15 (3) If the corporate officers, limited liability company member-managers or managers, or partners elect
16 not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited
17 liability company, limited partnership, limited liability partnership, or limited liability limited partnership shall
18 provide the department with a surety bond or certificate of deposit as security for payment of any tax that may
19 become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the
20 estimated annual gross receipts multiplied by the applicable sales or excise tax rate.

21

22 **NEW SECTION. Section 39. Exemption certificate -- responsibility of purchaser -- violation.** (1)
23 A retailer that possesses an exemption certificate from a purchaser of tangible personal property, any product
24 transferred electronically, or services that indicates the items or services being purchased are exempt, may rely
25 on the exemption certificate and not charge sales tax to the provider of the exemption certificate until the
26 provider of the exemption certificate gives notice that the items or services being purchased are no longer
27 exempt by filing a new exemption certificate with the retailer.

28 (2) The exemption certificate must be signed by the purchaser. The exemption certificate must provide

1 the purchaser's name, address, and valid state tax license number, if applicable. A person filing an electronic
2 exemption certificate is not required to sign the exemption certificate.

3 (3) The purchaser claiming the protection of an exemption certificate is responsible for assuring that
4 the goods and services delivered are of a type covered by the exemption certificate. A retailer of tangible
5 personal property, any product transferred electronically, or services which are generally described under the
6 exemption certificate is not responsible for the collection of the tax unless otherwise directed by the purchaser.

7 (4) If the purchaser later determines there is tax due, the purchaser shall remit the tax owed by the
8 purchaser to the state. If the purchaser makes an exempt purchase and later determines that the goods or
9 services purchased are not exempt, the purchaser shall report the transaction and pay the use tax on the next
10 filing of the purchaser's return.

11 (5) A purchaser who knowingly files an exemption certificate with a retailer in order to purchase
12 tangible personal property, any product transferred electronically, or services with the intent to evade payment
13 of the tax, and fails to timely report the same with the department is guilty of a misdemeanor. The department
14 may assess a penalty of up to 50% of the tax owed, in addition to the tax owed. No interest may be charged on
15 the penalty.

16 (6) The seller shall retain the exemption certificate for a period of 3 years from the date it is filed by the
17 purchaser and provide the exemption certificate to the department upon request.

18
19 **NEW SECTION. Section 40. Sourcing of sales and services -- rulemaking.** (1) For purposes of
20 the tax imposed by [sections 1 through 44], a retailer shall source sales of tangible personal property, any
21 product transferred electronically, and services to the location where the tangible personal property, the product
22 transferred electronically, or the service is received.

23 (2) The department shall adopt rules defining the location of receipt. The rules adopted pursuant to this
24 section may provide an alternative method of sourcing telecommunication services.

25
26 **NEW SECTION. Section 41. Registration and tax collection does not create nexus for other**
27 **taxes.** Registration under the agreement and collection of tax imposed under [sections 1 through 44] or
28 [sections 45 through 89] does not in and of itself create nexus for other taxes or fees imposed by this state.

1

2 NEW SECTION. Section 42. Relief from liability for failing to collect tax at new rate. (1) A retailer
3 is relieved of any liability for failing to collect a tax pursuant to [sections 1 through 44] at a new effective rate if
4 the state fails to provide a period of at least 30 days between enactment of the statute providing for a rate
5 change and the effective date of the rate change if:

- 6 (a) the retailer collected the tax at the immediately preceding effective rate; and
- 7 (b) the retailer's failure to collect at the newly effective rate does not extend beyond 30 days after the
8 date of enactment of the new rate.

9 (2) This section does not apply if the retailer fraudulently failed to collect the tax at the new rate or
10 solicited purchasers based on the immediately preceding effective rate.

11

12 NEW SECTION. Section 43. Rulemaking authority. The department may adopt rules pursuant to
13 [sections 1 through 44] concerning:

- 14 (1) licensing, including bonding and filing license applications;
- 15 (2) the filing of returns and payment of the tax;
- 16 (3) determining the application of the tax and exemptions;
- 17 (4) forms for exemption certificates;
- 18 (5) taxpayer record-keeping requirements; and
- 19 (6) determining audit methods.

20

21 NEW SECTION. Section 44. Sales tax proceeds. All money collected under [sections 1 through 44]
22 must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

23

24 NEW SECTION. Section 45. Definitions. For purposes of [sections 45 through 89], unless the
25 context requires otherwise, the following definitions apply:

- 26 (1) (a) "Contractor" means a person entering into a realty improvement contract or a contract for
27 construction services as enumerated in division c of the standard industrial classification manual, as prepared
28 by the statistical policy division of the United States office of management and budget with the United States

1 and its instrumentalities, the state of Montana and its subdivisions, or any other state or public corporation, or
2 person. If a contractor engages in services not specifically listed in division c of the standard industrial
3 classification manual, then the services must entail the construction, building, installation, or repair of a fixture
4 to realty before the gross receipts are subject to the tax imposed by [sections 45 through 89]. Operative
5 builders, industry number 1531, as enumerated in the standard industrial classification manual, as prepared by
6 the statistical policy division of the United States office of management and budget are contractors regardless
7 of whether they perform construction work themselves or contract with other contractors.

8 (b) A person who is not primarily in the business of making realty improvements and regularly employs
9 persons for the purpose of repairing, maintaining or making realty improvements for his own use and who
10 repairs, maintains or makes a realty improvement for his own use with his regular employees is not a
11 contractor.

12 (2) (a) "Fair market value" means the price at which a willing seller and willing buyer will trade as
13 determined at the time of purchase.

14 (b) If a public corporation is supplying tangible personal property or any product transferred
15 electronically that will be used in the performance of a contract, fair market value is the amount stated in the
16 contractor specifications or notice to bidders.

17 (3) "Included in the measure of the tax" means the tangible personal property, any product transferred
18 electronically, or the service was purchased from a retailer licensed under [sections 1 through 44] and that
19 retailer has included the tax in the amount received from the sale;

20 (4) "In this state" or "in the state" means within the exterior limits of the state of Montana and includes
21 all territory within the limits owned by or ceded to the United States of America.

22 (5) "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by
23 any means whatsoever, for a consideration. A transaction, whereby the possession of property is transferred
24 but the seller retains the title as security for the payment of the price, is a purchase.

25 (6) "Purchase price" means gross receipts as determined in [section 2(1)].

26 (7) "Retailer maintaining a place of business in the state" means any retailer having or maintaining
27 within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other
28 place of business, or any agents operating within the state under the authority of the retailer or its subsidiary,

1 irrespective of whether the place of business or agent is located here permanently or temporarily or whether the
2 retailer or subsidiary is admitted to do business within this state pursuant to the laws of the state of Montana
3 granting the rights of foreign corporations to do business in this state.

4 (8) "Storage" means any keeping or retention in this state for use or other consumption in the state of
5 Montana for any purpose except sale in the regular course of business.

6 (9) "Subcontractor" means a person contracting with a contractor to perform all or part of a realty
7 improvement the contractor has contracted to perform. For highway construction projects, a subcontractor
8 includes any person contracting with a contractor to perform any of the following services as part of the project:
9 traffic control, striping, flagging, operation of pilot cars, signing, landscaping, seeding, sodding, mulching, and
10 erosion control.

11 (10) "Use" means the exercise of right or power over tangible personal property or any product
12 transferred electronically incidental to the ownership of that property, except that it does not include the sale of
13 that property in the regular course of business. Use also includes the use of the types of services, the gross
14 receipts from the sale of which are to be included in the measure of the tax imposed by [sections 45 through
15 89], and the delivery or causing delivery into this state of tangible personal property or any product transferred
16 electronically intended to advertise any product or service or promote or facilitate any sale to Montana
17 residents.

18
19 **NEW SECTION. Section 46. Tax on tangible personal property purchased for use in state.** An
20 excise tax is hereby imposed on the privilege of the use, storage, and consumption in this state of tangible
21 personal property purchased for use in this state at the same rate imposed on sales of tangible personal
22 property provided for in [section 3].

23
24 **NEW SECTION. Section 47. Tax on use of product transferred electronically.** (1) There is an
25 excise tax imposed on the use, storage, or consumption in this state of any product transferred electronically
26 purchased for use in this state. The rate of the tax is the same as the rate imposed on sales of tangible
27 personal property provided for in [section 3].

28 (2) The tax is imposed if:

- 1 (a) the sale is to an end user;
- 2 (b) the sale is to a person who is not an end user, unless otherwise exempted by [sections 45 through
- 3 89];
- 4 (c) the seller grants the right of permanent or less than permanent use of the product transferred
- 5 electronically; or
- 6 (d) the sale is conditioned or not conditioned upon continued payment.
- 7 (3) For the purposes of this section:
- 8 (a) the term end user does not include any person who received by contract any product transferred
- 9 electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing,
- 10 relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person; and
- 11 (b) the term permanent use means perpetual or for an indefinite or unspecified length of time.
- 12 (4) The sale of a digital code that may be utilized to obtain a product transferred electronically is taxed
- 13 in the same manner as the product transferred electronically. A digital code is a code that permits a purchaser
- 14 to obtain at a later date a product transferred electronically.

15

16 **NEW SECTION. Section 48. Tax on use of rented property and products transferred**

17 **electronically -- exemption.** An excise tax is imposed on the privilege of the use of rented tangible personal

18 property and any product transferred electronically in this state at the rate imposed on sales of tangible

19 personal property provided for in [section 3].

20

21 **NEW SECTION. Section 49. Tax imposed on use of services -- exemptions.** For the privilege of

22 using services in Montana, except those services exempt under [section 17], there is imposed on the person

23 using the service an excise tax on the value of the service at the time the service is rendered. The tax rate is

24 equal to the rate of the tax on sales of tangible personal property provided for in [section 3].

25

26 **NEW SECTION. Section 50. Tax on tangible personal property and electronically transferred**

27 **products not originally purchased for use in state -- exemption -- rulemaking.** (1) An excise tax is

28 imposed on the privilege of the use, storage or consumption in this state of tangible personal property or any

1 product transferred electronically not originally purchased for use in this state, but thereafter used, stored or
2 consumed in this state, at the rate imposed on sales of tangible personal property provided for in [section 3].

3 (2) The use, storage, or consumption of tangible personal property or any product transferred
4 electronically more than 7 years old at the time it is brought into the state by the person who purchased the
5 property for use in another state is exempt from the tax. The department may adopt rules relating to the
6 determination of the age and value of the tangible personal property or the product transferred electronically
7 brought into this state.

8
9 **NEW SECTION. Section 51. Tax on passenger transportation.** (1) Except as provided in
10 subsection (2), there is imposed a tax on the privilege of the use of any transportation of passengers if the
11 passenger boards and exits the mode of transportation within this state. The rate of the tax is the same as the
12 rate imposed on sales of tangible personal property provided for in [section 3].

13 (2) The tax does not apply to any transportation service that the state is prohibited from taxing by
14 federal law or the United States constitution.

15
16 **NEW SECTION. Section 52. Tax on use of certain mobile telecommunications services.** (1)
17 There is imposed a tax on the privilege of the use of mobile telecommunications services, as defined in 4
18 U.S.C. 124(7), that originate and terminate in the same state and are billed to a customer with a place of
19 primary use in this state. The rate of the tax is the same as the rate imposed on sales of tangible personal
20 property provided for in [section 3].

21 (2) Notwithstanding any other provision of [sections 45 through 89] and for purposes of the tax
22 imposed by this section, the tax imposed upon mobile telecommunication services must be administered in
23 accordance with 4 U.S.C. 116-126.

24
25 **NEW SECTION. Section 53. Tax on intrastate, interstate, or international telecommunications**
26 **service -- exemptions.** (1) Except as provided in [section 52] and subsection (2), there is imposed a tax on the
27 privilege of the use of any intrastate, interstate, or international telecommunications service that originates or
28 terminates in this state and that is billed or charged to a service address in this state, or that both originates and

1 terminates in this state. The rate of the tax is the same as the rate imposed on sales of tangible personal
2 property provided for in [section 3].

3 (2) The tax imposed by this section does not apply to:

4 (a) any 800 or 800-type service unless the service both originates and terminates in this state;

5 (b) any sale of a telecommunication service to a provider of telecommunication services, including
6 access service, for use in providing any telecommunication service; or

7 (c) any sale of interstate telecommunication service provided to a call center that has been certified by
8 the department to meet the definition in [section 1] and the call center has provided to the telecommunications
9 service provider an exemption certificate issued by the department indicating that it meets the definition. If a call
10 center uses an exemption certificate to purchase services not meeting the definition of a call center, the call
11 center is liable for the applicable tax, penalty, and interest.

12
13 **NEW SECTION. Section 54. Tax on ancillary services.** There is a tax on the privilege of use of
14 ancillary services at the rate imposed on sales of tangible personal property provided for in [section 3].

15
16 **NEW SECTION. Section 55. Tax imposed on person using property.** The use tax provided for in
17 [sections 45 through 89] is imposed on every person using, storing, or otherwise consuming taxable property
18 within this state until the tax has been paid directly to a retailer or to the department.

19
20 **NEW SECTION. Section 56. Contractor and subcontractor taxed on property used in**
21 **performance of contract.** (1) Except as provided in subsection (2), if a contractor or subcontractor uses
22 tangible personal property or any product transferred electronically in the performance of a contract or to fulfill
23 contract or subcontract obligations, the contractor or subcontractor shall pay a tax at the rate prescribed by
24 [section 3] unless the property has been previously subjected to a sales or use tax in this state and the tax due
25 has been paid. This section applies whether the title to the property is in the name of the contractor,
26 subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of the property would
27 be subject to pay the sales or use tax. The amount of tax due is measured by the purchase price or fair market
28 value of the property, whichever is greater.

1 (2) If the contractor or subcontractor fabricates tangible personal property for use in the performance of
 2 a contract, fair market value excludes the value of the contractor's or subcontractor's fabrication costs. The
 3 value of molds and dies produced in connection with the fabrication or manufacture of other tangible personal
 4 property is limited to the cost of materials incorporated in the molds or dies to the extent the cost of the
 5 materials have not previously been subjected to sales or use tax.

6 (3) A tax increase may not be levied on materials incorporated in construction work pursuant to
 7 construction contracts bid or entered into on or before the effective date of a tax increase.

8
 9 **NEW SECTION. Section 57. Sectional homes subject to use tax.** A contractor who erects a
 10 sectional home must hold a sales tax or use tax license and pay use tax based on the fair market value of the
 11 raw materials used to construct and erect a sectional home.

12
 13 **NEW SECTION. Section 58. Retail sales include auctions and consignments -- deduction**
 14 **allowed.** (1) All auction sales and consignment sales of tangible personal property, any product transferred
 15 electronically, and services are sales at retail. The auction clerk shall file the return and remit the tax imposed
 16 by [sections 45 through 89] on the gross receipts from each auction after applying the deduction provided for in
 17 subsection (3).

18 (2) The auctioneer is responsible for the payment of the tax imposed by [sections 45 through 89] if the
 19 auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as required by
 20 [sections 45 through 89]. In addition to any other information required to be kept by [sections 45 through 89],
 21 each auction clerk shall keep records that identify the owner of the property sold at auction and the auctioneer
 22 who conducts the sale of the property.

23 (3) In determining the amount of tax due, auctioneers may deduct from gross receipts amounts which
 24 represent direct expense charges for clients for tangible personal property, any product transferred
 25 electronically, or services purchased by the auctioneer on behalf of a client. The sale of the property or service
 26 to the auctioneer is not a sale for resale if this deduction is taken. This deduction may only be taken if the
 27 amount to be deducted represents an expense specifically incurred for a particular client and the amount is
 28 itemized and paid from the client's auction proceeds by the auctioneer or closing agent. The deduction is

1 disallowed if the auctioneer receives any profit or remuneration directly or indirectly from the client's expense.

2

3 **NEW SECTION. Section 59. Exemption of property and services subject to sales tax.** The use in
4 this state of tangible personal property, any product transferred electronically, or services, the gross receipts
5 from the sale of which are to be included in the measure of the tax imposed by [sections 1 through 44] are
6 exempt from the tax imposed by [sections 45 through 89].

7

8 **NEW SECTION. Section 60. Credit for sales or use tax paid to another state -- reciprocity**
9 **required.** (1) Except as provided in subsection (2), the amount of any use tax imposed with respect to tangible
10 personal property, any product transferred electronically, or services must be reduced by the amount of any
11 sales or use tax previously paid by the taxpayer with respect to the property on account of liability to another
12 state or its political subdivisions.

13 (2) The amount of use tax imposed with respect to tangible personal property and any product
14 transferred electronically in the form of equipment brought into this state on a permanent basis for direct use in
15 a manufacturing, fabricating, or processing business must be reduced by the amount of any sales or use tax
16 previously paid by the taxpayer with respect to the property on account of liability to another state or its political
17 subdivisions to the extent that the tax equals or exceeds the rate of the tax in this state. If the sales or use tax
18 of the other state is less than the tax of this state, the taxpayer is subject to the payment of the balance to this
19 state.

20 (3) A credit may not be given under this section for taxes paid on tangible personal property, any
21 product transferred electronically, or services in another state or its political subdivisions if that state does not
22 reciprocally grant a credit for taxes paid on similar tangible personal property or any product transferred
23 electronically.

24

25 **NEW SECTION. Section 61. Exemption for uses exempt from sales tax.** The use in this state of
26 tangible personal property, any product transferred electronically, or services, the gross receipts from the sale
27 of which are exempt from the sales tax provided for in [sections 1 through 44] are exempt from the tax imposed
28 by [sections 45 through 89].

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NEW SECTION. Section 62. Exemption of use of property leased. The use, storage, or consumption of tangible personal property and any product transferred electronically actually leased to persons in this state is exempted from the provisions of [sections 45 through 89] and the tax imposed by them.

NEW SECTION. Section 63. Constitutional exemptions from tax. Tangible personal property and any product transferred electronically, the storage, use, or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state, is exempt from the tax imposed by [sections 45 through 89].

NEW SECTION. Section 64. Exemption of property brought in for personal use of nonresident. The use in this state of all articles of tangible personal property and any product transferred electronically brought into the state of Montana by a nonresident individual for personal use or enjoyment while in the state, is exempt from the tax imposed by [sections 45 through 89].

NEW SECTION. Section 65. Exemption of materials becoming part of out-of-state signage or advertising. The use in this state of tangible personal property and any product transferred electronically that becomes an integral and component part of a final product manufactured by a business classified in signs and advertising specialties that is installed by the manufacturer outside of this state is exempt from the tax imposed by [sections 45 through 89].

NEW SECTION. Section 66. Prima facie evidence of taxability. For the purpose of the proper administration of [sections 45 through 89] and to prevent the evasion of the tax:

(1) evidence that tangible personal property or any product transferred electronically was sold by any person for delivery in this state is prima facie evidence that the tangible personal property or the product transferred electronically was sold for use in this state; and

(2) evidence that a service is used in this state is prima facie evidence that the service is subject to tax.

1 **NEW SECTION. Section 67. Money paid as evidence of value of service.** (1) Except as provided
2 in subsection (2), in determining the amount of tax due on the use of a service, it is presumed, in the absence
3 of preponderant evidence of another value, that the value means the total amount of money or the reasonable
4 value of other consideration paid for the service exclusive of any type of time-price differential.

5 (2) In an exchange in which the amount paid does not represent the value of the service purchased,
6 the tax must be imposed on the reasonable value of the service purchased.

7
8 **NEW SECTION. Section 68. List of sales of property or sales to residents.** If property is
9 delivered to this state or the beneficial use of the service occurs in this state, the person selling the property or
10 services to residents of this state shall provide a list of the sales to the department. The list must include the
11 names and addresses of the purchasers and the amount of the sale. The department shall pay to any person
12 furnishing a list under this section an amount equal to the reasonable cost of reproducing the list.

13
14 **NEW SECTION. Section 69. Collection of tax by retailer maintaining place of business in state.**

15 (1) Any retailer maintaining a place of business in this state, and making sales of tangible personal property,
16 any product transferred electronically, or services for storage, use or other consumption in this state, not
17 exempted under the provisions of [sections 45 through 89], shall, at the time of making a sale, whether within or
18 without the state, collect the tax imposed by [sections 45 through 89] from the purchaser, and give to the
19 purchaser a receipt in the manner and form prescribed by the department.

20 (2) The retailer shall list with the department the name and address of all the retailer's agents operating
21 in this state, and the location of any of the retailer's distribution or sales houses or offices or other places of
22 business in this state.

23
24 **NEW SECTION. Section 70. Semiannual report of sales by retailer maintaining place of**

25 **business in state.** (1) Every retailer maintaining a place of business in this state and making sales of tangible
26 personal property or any product transferred electronically for storage, use, or other consumption in this state,
27 shall, twice annually furnish the department with a report, covering the 6-month period just preceding the
28 submission of the report.

1 (2) The report must contain:

2 (a) the names and addresses of all persons within the state of Montana who have made purchases of
3 tangible personal property or any product transferred electronically from the retailer for use, storage, or
4 consumption; and

5 (b) the total amount of the purchase price of all personal property purchased during the period.

6 (3) The report is not required to include any information on the sale of tangible personal property or
7 any product transferred electronically if exempt under [sections 45 through 89].

8

9 **NEW SECTION. Section 71. Permit for collection of tax by retailer not maintaining place of**
10 **business in state -- security for collection.** (1) The department may, upon application, authorize the
11 collection of the tax imposed by [sections 45 through 89] by any retailer not maintaining a place of business
12 within this state, who, to the satisfaction of the department furnishes adequate security to ensure collection and
13 payment of the tax.

14 (2) The retailer must be issued, without charge, a permit to collect the tax subject to requirements the
15 department may prescribe by rule.

16 (3) If authorized, the retailer shall collect the tax on any tangible personal property or any product
17 transferred electronically sold to the retailer's knowledge for use, storage, or other consumption within this
18 state, in the same manner and subject to the same requirements as a retailer maintaining a place of business
19 within this state.

20 (4) The authority and permit may be canceled if, at any time, the department considers the security
21 inadequate, or that the tax can more effectively be collected from the person using the property in this state.

22

23 **NEW SECTION. Section 72. Collection and remittance of tax by retailer.** The tax on the use,
24 storage, or other consumption of all tangible personal property or any product transferred electronically that is
25 sold by a retailer maintaining a place of business in this state, or by a retailer authorized by the department
26 pursuant to [section 71], must be collected by the retailer and remitted to the department as provided in
27 [sections 73 through 78].

28

1 **NEW SECTION. Section 73. Surety bond filed by retailer.** In order to ensure the collection of the
2 tax levied under [sections 45 through 89], the department may authorize a person subject to the tax and a
3 retailer required or authorized to collect the tax to file with the department a bond issued by a surety company
4 to secure the payment of any tax or penalties due or that may become due. The surety company must be
5 authorized to transact business in this state and approved by the department. The bond must be in the amount
6 required by the department.

7
8 **NEW SECTION. Section 74. Securities deposited by retailer in lieu of bond.** The department may
9 approve securities in lieu of a bond. Securities deposited with the department must be kept in the custody of the
10 department and may be sold at public or private sale, without notice to the depositor, if it becomes necessary to
11 do so to recover a tax or penalties due. If a security is sold for more than the amount due, the surplus must be
12 returned to the person who deposited the securities.

13
14 **NEW SECTION. Section 75. Tax collected as debt of retailer.** The tax required to be collected by
15 any retailer pursuant to [sections 69 through 71] constitutes a debt owed by the retailer to this state.

16
17 **NEW SECTION. Section 76. Time for filing of return and payment of tax -- extension.** (1) A
18 person required to pay or a retailer required or authorized to collect the tax imposed by [sections 45 through 89]
19 shall, except as otherwise provided in this section, file a return, and pay any tax due, to the department on or
20 before the 20th day of the month following each monthly period. The return must be filed on forms prescribed
21 and furnished by the department.

22 (2) If the person or retailer remits the tax by electronic transfer to the state, the person or retailer shall
23 file the return by electronic means on or before the 20th day of the month following each period and remit the
24 tax on or before the 25th day of the month following each period.

25 (3) The department may require or allow a person or retailer to file a return, and pay any tax due, on a
26 basis other than monthly. The return and remittance is due the 20th day of the month following the reporting
27 period or at a time otherwise determined by the department.

28 (4) The department may grant an extension of not more than 5 days for filing a return and remittance.

1 (5) Unless an extension is granted, a person or retailer is subject to the penalty and interest provisions
2 of 15-1-216 if a return or remittance is not made on time.

3
4 **NEW SECTION. Section 77. Contents of return -- remittance.** (1) At the time specified in [section
5 76], the person or retailer shall file with the department a return for the preceding reporting period in a form
6 prescribed by the department showing the sales price of any tangible personal property, any product
7 transferred electronically, or services sold by the retailer during the preceding reporting period, the use,
8 storage, or consumption of which is subject to the tax imposed by [sections 45 through 89], and other
9 information required by the department. Each return must be accompanied by a remittance of the amount of tax
10 due for the period covered by the return.

11 (2) Returns must be signed by the retailer or the retailer's authorized agent and must be certified by
12 the retailer to be correct.

13
14 **NEW SECTION. Section 78. Amounts of tax paid on conditional sales or installment contract**
15 **receipts.** If tangible personal property or any product transferred electronically is sold under a conditional sales
16 contract, or under any other form of sale for which the payment of the principal sum, or a part thereof, is
17 extended over a period longer than 60 days from the date of the sale, the retailer may collect and remit for each
18 month that portion of the tax equal to the rate of tax as provided for in [sections 45 through 89] of that portion of
19 the purchase price actually received during the month.

20
21 **NEW SECTION. Section 79. Direct payment of tax by user.** (1) The tax on the use, storage, or
22 consumption of any tangible personal property or any product transferred electronically not paid pursuant to
23 [section 72] must be paid to the department directly by any person using the property within this state.

24 (2) Any person who uses, stores, or otherwise consumes any property or services subject to tax by
25 [sections 45 through 89] on which the tax has not been paid, either to a retailer or directly to the department, is
26 liable for the tax, and shall, on or before the time specified in [section 76], pay the tax on all the property used
27 by the person during the preceding month as required by [section 76]. The provisions of [sections 76 to 79],
28 with reference to returns and payments are applicable to the returns and payments required by this section.

1

2 **NEW SECTION. Section 80. Administration and enforcement -- sales tax collection provisions**
3 **applicable.** The department shall enforce and administer [sections 45 through 89] in the same manner and
4 subject to all of the provisions contained in [sections 1 through 44].

5

6 **NEW SECTION. Section 81. Determination of tax by department in absence of correct return.** If
7 any return required by [sections 45 through 89] is not filed, or if any return when filed is incorrect or insufficient,
8 and the maker or person from whom it is due fails to file a corrected or sufficient return within 10 days after the
9 time required by notice from the department, the department shall determine the amount due.

10

11 **NEW SECTION. Section 82. Department's certificate as prima facie evidence of failure to file**
12 **return or pay tax.** The certificate of the department to the effect that a tax or amount required to be paid by
13 [sections 45 through 89] has not been paid, that a return has not been filed, or that information has not been
14 supplied pursuant to the provisions of [sections 45 through 89] is prima facie evidence that the tax or amount
15 has not been paid.

16

17 **NEW SECTION. Section 83. Records maintained by retailers and users.** (1) Each retailer required
18 or authorized to collect taxes imposed by [sections 45 through 89] and each person using, storing or otherwise
19 consuming in this state tangible personal property or any product transferred electronically shall keep records,
20 receipts, invoices, and other pertinent papers as required by the department, in the form required by the
21 department.

22 (2) The department and its authorized agents may examine the books, papers, records, and
23 equipment of any person either selling tangible personal property or products transferred electronically or liable
24 for the tax imposed by [sections 45 through 89], and investigate the character of the person's business in order
25 to verify the accuracy of any return made or to determine the amount due under the provisions of [sections 45
26 through 89].

27 (3) Any books, papers, and records must be made available within this state for examination upon
28 reasonable notice by the department.

1

2 **NEW SECTION. Section 84. Revocation of retailer's sales tax permit on failure to comply.** (1) If
 3 a retailer maintaining a place of business in this state, who is authorized to collect the tax imposed pursuant to
 4 [section 71], fails to comply with the provisions of [sections 45 through 89] or orders or rules of the department,
 5 the department may, upon notice and hearing, revoke the permit by order.

6 (2) The department may not authorize a revocation order until the retailer is given an opportunity to be
 7 heard and show cause why the order should not be made and must be given 10 days' notice of the time, place
 8 and purpose of the hearing. The notice must be served in the manner provided for service of summons in civil
 9 actions.

10 (3) The department may restore a revoked permit at its discretion.

11

12 **NEW SECTION. Section 85. Personal liability of officers, managers, or partners of entity failing**
 13 **to file returns or pay tax.** (1) If a corporation, limited liability company, limited partnership, limited liability
 14 partnership, or limited liability limited partnership subject to tax under [sections 45 through 89] fails for any
 15 reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or
 16 managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with
 17 the responsibility of filing the returns or remitting tax payments are personally liable for the failure.

18 (2) The dissolution of a corporation, limited liability company, limited partnership, limited liability
 19 partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or
 20 partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability
 21 partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for a liability
 22 may be assessed and collected as provided by law.

23 (3) If the corporate officers, limited liability company member-managers or managers, or partners elect
 24 not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited
 25 liability company, limited partnership, limited liability partnership, or limited liability limited partnership shall
 26 provide the department with a surety bond or certificate of deposit as security for payment of any tax that may
 27 become due. The bond or certificate of deposit provided for in this section must be in an amount equal to the
 28 estimated annual gross receipts multiplied by the applicable sales or excise tax rate.

1

2 **NEW SECTION. Section 86. Department authorized to issue direct payment permits to certain**

3 **retailers -- rulemaking.** (1) The department may authorize a retailer to use a direct payment permit if the
4 retailer purchases goods or services subject to the tax imposed by [sections 1 through 44]. Applicants for a
5 direct payment permit must apply in writing to the department.

6 (2) A retailer may appeal the denial of a direct payment permit or contest a revocation of a direct
7 payment permit.

8 (3) A retailer that makes a sale to a direct payment permit holder has no liability for sales tax on the
9 sale if the retailer has written evidence of the sale. The written evidence must clearly indicate the name of the
10 buyer, the product or service purchased, and the amount of the purchase.

11 (4) The department may adopt rules concerning the administration and use of a direct payment permit.

12 (5) For purposes of this section, "direct payment permit" means a permit issued by the department that
13 allows a holder of the permit to accrue and pay the taxes imposed by [sections 1 through 44] directly to the
14 department.

15

16 **NEW SECTION. Section 87. Relief from liability for failing to report tax at new rate --**

17 **conditions.** (1) A retailer is relieved of any liability for failing to report a tax pursuant to [sections 45 through 89]
18 at the new effective rate if the state fails to provide a period of at least 30 days between enactment of the
19 statute providing for a rate change and the effective date of the rate change if:

20 (a) the retailer reported the tax at the immediately preceding effective rate; and

21 (b) the retailer's failure to report at the newly effective rate does not extend beyond 30 days after the
22 date of enactment of the new rate.

23 (2) This section does not apply if the retailer fraudulently failed to report the tax at the new rate.

24

25 **NEW SECTION. Section 88. Rulemaking authority.** The department may adopt rules pursuant to
26 [sections 45 through 89] concerning:

27 (1) licensing, including bonding and filing license applications;

28 (2) the filing of returns and payment of the tax;

- 1 (3) determining the application of the tax and exemptions;
- 2 (4) forms for exemption certificates;
- 3 (5) taxpayer record-keeping requirements; and
- 4 (6) determining audit methods.

5

6 **NEW SECTION. Section 89. Use tax proceeds.** All money collected under [sections 45 through 89]
 7 must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

8

9 **NEW SECTION. Section 90. Short title.** [Sections 90 through 102] must be known as and referred to
 10 as the Uniform Sales and Use Tax Administration Act.

11

12 **NEW SECTION. Section 91. Definitions.** For purposes of [sections 90 through 102], the following
 13 definitions apply:

- 14 (1) "Agreement" means the streamlined sales and use tax agreement.
- 15 (2) "Certified automated system" means software certified jointly by the states that are signatories to
 16 the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax
 17 to remit to the appropriate state, and maintain a record of the transaction.
- 18 (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the
 19 agreement to perform all of the seller's sales tax functions.
- 20 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
 21 liability partnership, corporation, or any other legal entity.
- 22 (5) "Sales tax" means the tax levied under [sections 1 through 44].
- 23 (6) "Seller" means any person making sales, leases, or rentals of personal property or services.
- 24 (7) "State" means any state of the United States and the District of Columbia.
- 25 (8) "Use tax" means the tax levied under [sections 45 through 89].

26

27 **NEW SECTION. Section 92. Legislative findings.** The Legislature finds that this state should enter
 28 into an agreement with one or more states to simplify and modernize sales and use tax administration in order

1 to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

2

3 **NEW SECTION. Section 93. Authority to enter agreement.** (1) The department is authorized and
4 directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and
5 modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all
6 sellers and for all types of commerce. In furtherance of the agreement, the department is authorized to act
7 jointly with other states that are members of the agreement to establish standards for certification of a certified
8 service provider and certified automated system and establish performance standards for multistate sellers.

9 (2) The department is authorized to take other actions reasonably required to implement the provisions
10 of [sections 90 through 102]. Other actions authorized by [sections 90 through 102] include, but are not limited
11 to, the adoption of rules consistent with the department's rulemaking authority in [sections 43 and 88] and the
12 joint procurement, with other member states, of goods and services in furtherance of the cooperative
13 agreement.

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

16

17 **NEW SECTION. Section 94. Relationship to state law.** No provision of the agreement authorized
18 by [sections 90 through 102] in whole or in part invalidates or amends any provision of the laws of this state.
19 Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any
20 condition of the agreement in this state, whether adopted before, at, or after membership of this state in the
21 agreement, must be by the action of this state.

22

23 **NEW SECTION. Section 95. Agreement requirements.** (1) The department may not enter into the
24 streamlined sales and use tax agreement unless the agreement requires each state to abide by the
25 requirements of this section.

26 (2) The agreement must set restrictions to achieve over time more uniform state rates through the
27 following:

28 (a) limiting the number of state rates;

- 1 (b) limiting the application of maximums on the amount of state tax that is due on a transaction; and
- 2 (c) limiting the application of thresholds on the application of state tax.
- 3 (3) The agreement must establish uniform standards for the following:
- 4 (a) the sourcing of transactions to taxing jurisdictions;
- 5 (b) the administration of exempt sales;
- 6 (c) the allowances a seller may take for bad debts; and
- 7 (d) sales and use tax returns and remittances.
- 8 (4) The agreement must require states to develop and adopt uniform definitions of sales and use tax
- 9 terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the
- 10 uniform definitions.
- 11 (5) The agreement must provide a central, electronic registration system that allows a seller to register
- 12 to collect and remit sales and use taxes for all signatory states.
- 13 (6) The agreement must provide that registration with the central registration system and the collection
- 14 of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has
- 15 nexus with a state for any tax
- 16 (7) The agreement must provide for reduction of the burdens of complying with local sales and use
- 17 taxes through the following:
- 18 (a) restricting variances between the state and local tax bases;
- 19 (b) requiring states to administer any sales and use taxes levied by local jurisdictions within the state
- 20 so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or
- 21 be subject to independent audits from local taxing jurisdictions;
- 22 (c) restricting the frequency of changes in the local sales and use tax rates and setting effective dates
- 23 for the application of local jurisdictional boundary changes to local sales and use taxes; and
- 24 (d) providing notice of changes in local sales and use tax rates and of changes in the boundaries of
- 25 local taxing jurisdictions.
- 26 (8) The agreement must outline any monetary allowances that are to be provided by the states to
- 27 sellers or certified service providers.
- 28 (9) The agreement must require each state to certify compliance with the terms of the agreement prior

1 to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement
2 while a member.

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

5 (11) The agreement must provide for the appointment of an advisory council of private sector
6 representatives and an advisory council of nonmember state representatives to consult with in the
7 administration of the agreement.

8
9 **NEW SECTION. Section 96. Cooperating sovereigns.** The agreement authorized by [sections 90
10 through 102] is an accord among individual cooperating sovereigns in furtherance of their governmental
11 functions. The agreement provides a mechanism among the member states to establish and maintain a
12 cooperative, simplified system for the application and administration of sales and use taxes under the duly
13 adopted law of each member state.

14
15 **NEW SECTION. Section 97. Seller and third-party liability.** (1) A certified service provider is the
16 agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of
17 sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each
18 member state on all sales transactions it processes for the seller except as set out in this section.

19 (2) A seller that contracts with a certified service provider is not liable to the state for sales or use tax
20 due on transactions processed by the certified service provider unless the seller misrepresented the type of
21 items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed
22 fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by
23 the certified service provider. A seller is subject to audit for transactions not processed by the certified service
24 provider. The member states acting jointly may perform a system check of the seller and review the seller's
25 procedures to determine if the certified service provider's system is functioning properly and the extent to which
26 the seller's transactions are being processed by the certified service provider.

27 (3) A person that provides a certified automated system is responsible for the proper functioning of that
28 system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified

1 automated system. A seller that uses a certified automated system remains responsible and is liable to the
2 state for reporting and remitting tax.

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

6
7 **NEW SECTION. Section 98. Seller registering to collect sales and use tax not liable for**
8 **uncollected tax -- exception.** No seller who registers to pay or to collect and remit applicable Montana sales
9 or use tax in accordance with the terms of the streamlined sales and use tax agreement is liable for any
10 uncollected or unpaid sales or use tax, penalty or interest, unless the seller was registered in this state during
11 the 12-month period preceding the date the state is found in compliance with the streamlined sales and use tax
12 agreement. For any seller who is not obligated to collect and remit the tax imposed under [sections 1 through
13 44, 45 through 89, and 117 through 124], the amnesty period provided by this section ends 12 months after the
14 date the streamlined sales tax governing board has determined that adequate certified service providers and
15 certified automated systems are available.

16
17 **NEW SECTION. Section 99. Assessment for uncollected tax prohibited for period seller not**
18 **registered if registration occurs as required.** The provisions of [section 98] preclude assessment for any
19 uncollected or unpaid sales or use tax, penalty, or interest for sales made during the period the seller was not
20 registered in the state, if registration occurs within 12 months of the date the state is found in compliance with
21 the streamlined sales and use tax agreement.

22
23 **NEW SECTION. Section 100. Provisions not applicable to matters relating to unresolved audits**
24 **or paid taxes.** The provisions of [section 98] do not apply to any seller with respect to any matter or matters for
25 which the seller received notice of the commencement of an audit and the audit is not yet finally resolved,
26 including any related administrative and judicial processes. The provisions of [section 98] do not apply to any
27 sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

28

1 **NEW SECTION. Section 101. Effectiveness of unresolved audit provisions -- requirements --**
2 **statute of limitations.** Absent the seller's fraud or intentional misrepresentation of a material fact, the
3 provisions of [section 98] are fully effective if the seller remains registered and continues payment or collection
4 and remittance of applicable sales or use taxes for a period of at least 36 months from the date of the seller's
5 original registration. The state's statute of limitations applicable to asserting a tax liability is tolled during this 36-
6 month period.

7
8 **NEW SECTION. Section 102. Provisions applicable to taxes due from seller in capacity as**
9 **seller.** The provisions of [section 98] are applicable only to sales or use taxes due from a seller in its capacity
10 as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

11
12 **NEW SECTION. Section 103. Certain sellers located outside of state required to collect and**
13 **remit sales taxes.** Notwithstanding any other provision of law, any seller selling tangible personal property,
14 products transferred electronically, or services for delivery into Montana, who does not have a physical
15 presence in the state, is subject to [sections 1 through 44, 45 through 89, and 117 through 124], shall remit the
16 sales tax ,and shall follow all applicable procedures and requirements of law as if the seller had a physical
17 presence in the state, provided the seller meets either of the following criteria in the previous calendar year or
18 the current calendar year:

- 19 (1) the seller's gross revenue from the sale of tangible personal property, any product transferred
20 electronically, or services delivered into Montana exceeds \$100,000; or
21 (2) the seller sold tangible personal property, any product transferred electronically, or services for
22 delivery into Montana in 200 or more separate transactions.

23
24 **NEW SECTION. Section 104. Definitions.** For purposes of [sections 104 through 107], the following
25 definitions apply:

- 26 (1) "Marketplace" means any means by which any marketplace seller sells or offers for sale tangible
27 personal property, products transferred electronically, or services for delivery into this state, regardless of
28 whether the marketplace seller has a physical presence in this state.

1 (2) "Marketplace provider" means any person that facilitates a sale for a marketplace seller through a
2 marketplace by:

3 (a) offering for sale by the marketplace seller, by any means, tangible personal property, products
4 transferred electronically, or services for delivery into this state; and

5 (b) directly, or indirectly through any agreement or arrangement with third parties, collecting payment
6 from a purchaser and transmitting the payment to the marketplace seller, regardless of whether the person
7 receives compensation or other consideration in exchange for facilitating the sale or providing any other
8 service.

9 (3) "Marketplace seller" means a retailer that sells or offers for sale tangible personal property,
10 products transferred electronically, or services for delivery into this state, through a marketplace that is owned,
11 operated, or controlled by a marketplace provider.

12 (4) "Person" has the meaning provided in [section 1].

13 (5) "Retailer" has the meaning provided in [section 1].

14

15 **NEW SECTION. Section 105. Certain marketplace providers required to collect and remit sales**
16 **tax.** Notwithstanding any other provision of law, a marketplace provider is subject to [sections 1 through 44, 45
17 through 89, and 117 through 124], and shall collect and remit sales tax on all sales of tangible personal
18 property, products transferred electronically, or services for delivery into this state, that the marketplace
19 provider makes or facilitates for a marketplace seller if the marketplace provider:

20 (1) is a seller subject to [section 103];

21 (2) facilitates the sales of at least one marketplace seller that is subject to [section 103]; or

22 (3) facilitates the sales of two or more marketplace sellers that, when the sales are combined, are
23 subject to [section 103], even if the marketplace sellers are not separately or individually subject to [section
24 103].

25

26 **NEW SECTION. Section 106. Sale for resale.** A marketplace seller making a sale through a
27 marketplace provider that is subject to the provisions of [sections 104 through 107] must consider the sale as a
28 sale for resale.

1

2 **NEW SECTION. Section 107. Failure to collect or remit sales tax -- relief from liability.** (1)

3 Except as provided in subsection (2), a marketplace provider that fails to collect or remit sales tax as provided
4 in [section 105] may be relieved of liability if the failure was due to incorrect or insufficient information provided
5 to the marketplace provider by a marketplace seller. The relief provided by this section may not exceed 5% of
6 the total sales tax due on all sales into this state that are facilitated by a marketplace provider for marketplace
7 sellers in a calendar year.

8 (2) The provisions of this section do not apply to any sales for which the marketplace provider is
9 affiliated with the marketplace seller. A marketplace provider and a marketplace seller are affiliated if:

- 10 (a) either owns more than 5% of the other; or
- 11 (b) both are subject to the control of a common entity that owns more than 5% of each.

12
13 **NEW SECTION. Section 108. Definition of terms related to sales of property, services, and**
14 **products transferred electronically.** For purposes of [sections 108 through 116], the following definitions

15 apply:

16 (1) "De minimis online auction website" means any online auction website that facilitates total gross
17 sales in Montana in the prior calendar year of less than \$100,000 and reasonably expects Montana sales in the
18 current calendar year will be less than \$100,000.

19 (2) "De minimis retailer" means any noncollecting retailer that made total gross sales in Montana in the
20 prior calendar year of less than \$100,000 and reasonably expects Montana sales in the current calendar year
21 will be less than \$100,000.

22 (3) "Noncollecting retailer" means any retailer, not currently registered to collect and remit Montana
23 sales and use tax, who makes sales of tangible personal property, services, and products transferred
24 electronically from a place of business outside of Montana to be shipped to Montana for use, storage, or
25 consumption and who is not required to collect Montana sales or use taxes.

26 (4) "Online auction website" means a collection of web pages on the Internet that allows any person to
27 display tangible personal property, services, or products transferred electronically for sale that is purchased
28 through a competitive process for which a participant places a bid with the highest bidder purchasing the

1 property, service, or product when the bidding period ends.

2 (5) "Montana purchaser" any purchaser that purchases tangible personal property, services, or
3 products transferred electronically to be shipped or transferred to Montana.

4
5 **NEW SECTION. Section 109. Notice of use tax due on purchases of tangible personal property,**
6 **services, or products transferred electronically.** Pursuant to [sections 108 through 116], each noncollecting
7 retailer shall give notice that Montana use tax is due on nonexempt purchases of tangible personal property,
8 services, or products transferred electronically and must be paid by the Montana purchaser. The notice must be
9 readily visible and contain the information as follows:

10 (1) the noncollecting retailer is not required to, and does not collect, Montana sales or use tax;

11 (2) the purchase is subject to state use tax unless it is specifically exempt from taxation;

12 (3) the purchase is not exempt merely because the purchase is made over the Internet, by catalog, or
13 by other remote means;

14 (4) the state requires each Montana purchaser to report any purchase that was not taxed and pay tax
15 on the purchase. The tax may be reported and paid on the Montana use tax form; and

16 (5) the use tax form and corresponding instructions are available on the Montana department of
17 revenue website.

18
19 **NEW SECTION. Section 110. Notice on website or in catalog.** (1) The notice required by [section
20 109] on a website must be on a page necessary to facilitate the applicable transaction. The notice is sufficient if
21 the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Montana
22 sales and use tax information regarding the tax you may owe directly to the State of Montana." The prominent
23 linking notice must direct the purchaser to the principal notice information required by [section 109].

24 (2) The notice required by [section 109] in a catalog must be part of the order form. The notice is
25 sufficient if the noncollecting retailer provides a prominent reference to a supplemental page that reads as
26 follows: "See important Montana sales and use tax information regarding the tax you may owe directly to the
27 State of Montana on page ____." The notice on the order form must direct the purchaser to the page that
28 includes the principal notice required by [section 109].

1

2 **NEW SECTION. Section 111. Invoice notice for internet or catalog purchase.** (1) For any internet
 3 purchase made pursuant to [sections 108 through 116], the invoice notice must be on the electronic order
 4 confirmation. The notice is sufficient if the noncollecting retailer provides a prominent linking notice that reads
 5 as follows: "See important Montana sales and use tax information regarding the tax you may owe directly to the
 6 State of Montana." The invoice notice link must direct the purchaser to the principal notice required by [section
 7 109]. If the noncollecting retailer does not issue an electronic order confirmation, the complete notice must be
 8 placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

9 (2) For any catalog or phone purchase made pursuant to [sections 108 through 116], the complete
 10 notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

11

12 **NEW SECTION. Section 112. Notice on check-out page for internet purchase fulfills**
 13 **requirements.** For any internet purchase made pursuant to [sections 108 through 116], notice on the check-out
 14 page fulfills both the website and invoice notice requirements simultaneously. The notice is sufficient if the
 15 noncollecting retailer provides a prominent linking notice that reads as follows: "See important Montana sales
 16 and use tax information regarding the tax you may owe directly to the State of Montana." The check-out page
 17 notice link must direct the purchaser to the principal notice required by [section 109].

18 (2) If a retailer is required to provide a similar notice for another state in addition to Montana, the
 19 retailer may provide a consolidated notice so long as the notice includes the information contained in [section
 20 109], specifically references Montana, and meets the placement requirements of this section.

21

22 **NEW SECTION. Section 113. Displays to be accompanied by notice of tax due.** (1) A
 23 noncollecting retailer may not state or display or imply that no tax is due on any Montana purchase unless the
 24 display is accompanied by the notice required by [section 109] each time the display appears. If a summary of
 25 the transaction includes a line designated "sales tax" and shows the amount of sales tax as zero, this
 26 constitutes a display implying that no tax is due on the purchase. This display must be accompanied by the
 27 notice required by [section 109] each time it appears.

28 (2) Notwithstanding the limitation in this section, if a noncollecting retailer knows that a purchase is

1 exempt from Montana tax pursuant to Montana law, the noncollecting retailer may display or indicate that no
2 sales or use tax is due even if the display is not accompanied by the notice required by [section 109].

3

4 NEW SECTION. Section 114. Online auction websites. With the exception of notification on an
5 invoice, the provisions of [sections 108 through 116] apply to online auction websites.

6

7 NEW SECTION. Section 115. De minimis retailers and de minimis online auction websites. A de
8 minimis retailer and a de minimis online auction website are exempt from the notice requirements provided by
9 [sections 108 through 116].

10

11 NEW SECTION. Section 116. Criminal penalty or civil liability not applicable. No criminal
12 penalty or civil liability may be applied or assessed for failure to comply with the provisions of [sections 108
13 through 116].

14

15 NEW SECTION. Section 117. Local option tax -- definitions. As used in [sections 117 through
16 124], the following definitions apply:

17 (1) "Department" means the department of revenue.

18 (2) "Governing body" means the governing body of a municipality, consolidated city-county, or county
19 in which a local option tax is proposed or approved.

20

21 NEW SECTION. Section 118. Imposition of local option tax -- limit - state conformity. (1) As
22 required by 7-1-112, [sections 117 through 124] specifically delegate to the qualified electors of each respective
23 municipality, consolidated city-county, or county, the power to authorize their municipality, consolidated city-
24 county, or county to impose a local option tax within the corporate boundary of the municipality, consolidated
25 city-county, or county on the sale, use, storage, and consumption of items taxed under [sections 1 through 44
26 and 45 through 89].

27 (2) The tax must conform in all respects to the state tax with the exception of the rate, which may not
28 exceed 3 percent.

1 (3) A tax levied pursuant to [sections 117 through 124] is subject to the provisions of [sections 1
2 through 44 and 45 through 89], [sections 90 through 102], [section 103], [sections 104 through 107], and
3 [sections 108 through 116].
4

5 **NEW SECTION. Section 119. Local option tax -- election required - procedure -- notice.** (1) A
6 municipality, consolidated city-county, or county may not impose, amend, or repeal a local option tax unless the
7 local option tax question has been submitted to the electorate of the municipality, consolidated city-county, or
8 county and approved by a majority of the electors voting on the question.

9 (2) The local option tax question may be presented to the electors of:

10 (a) a municipality by a petition of the electors, as provided by 7-1-4130, 7-5-131 through 7-5-135,
11 and 7-5-137, or by a resolution of the governing body of the municipality;

12 (b) a county by a petition of electors, as provided in 7-5-131 through 7-5-135 and 7-5-137, or by a
13 resolution of the board of county commissioners; or

14 (c) a consolidated city-county by a petition of electors, as provided in 7-5-131 through 7-5-135 and
15 7-5-137, or by resolution of the governing body of the consolidated city-county.

16 (3) The petition or resolution referring the local option tax question must state:

17 (a) the rate of the local option tax;

18 (b) the duration of the local option tax by:

19 (i) establishing an automatic sunset date of not more than 10 years; or

20 (ii) referencing a revenue bond payoff schedule.

21 (c) the date the local option tax becomes effective, which may not be earlier than 90 days after the
22 election; and

23 (d) the purposes that may be funded by the local option tax revenue.

24 (4) Upon passage of a resolution or upon receipt of an adequate petition, the governing body may:

25 (a) call a special election on the local option tax question; or

26 (b) place the local option tax question on the ballot at the next regularly scheduled election.

27 (5) Notice of the election must be accomplished as provided in 13-1-108 and must include the
28 information contained in subsection (3) of this section.

1 (6) The question of the imposition of a local option tax may not be placed before the electors more
2 than once every 2 years.

3
4 NEW SECTION. Section 120. Administration of local option tax by state -- rulemaking. The
5 department shall administer a local option tax adopted under [sections 117 through 124]. The department may
6 prescribe forms and adopt rules for the making of returns and for the ascertainment, assessment, and collection
7 of the tax imposed pursuant to [sections 117 through 124]. The department shall keep full and accurate records
8 of all money received and distributed under [sections 117 through 124].

9
10 NEW SECTION. Section 121. Distribution of local option tax collections. (1) The proceeds of the
11 local option tax collected on behalf of a municipality, consolidated city-county, or county by the department,
12 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue
13 fund to the credit of the department for distribution to municipalities, consolidated city-county governments, and
14 counties. The department may spend from the account in accordance with an expenditure appropriation by the
15 legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax.

16 (2) After deducting the amount of refunds made, the amounts necessary to defray the cost of
17 collecting the tax, and administrative expenses, the department shall distribute the local option tax and any
18 associated penalties and interest to the municipality, consolidated city-county, or county within 30 days of the
19 end of the time period in which the retailer is required to file a return with the department.

20
21 NEW SECTION. Section 122. Use of local option tax proceeds -- bond issue. (1) Unless
22 otherwise restricted by the voter-approved tax authorization provided for in [section 119] and subject to [section
23 123], a municipality, consolidated city-county, or county may appropriate and expend revenue derived from a
24 local option tax for any purpose. The municipality, consolidated city-county, or county may share local option
25 infrastructure tax revenue with another municipality, consolidated city-county, or county through an interlocal
26 agreement.

27 (2) A municipality, consolidated city-county, or county may issue bonds as provided for under 7-7-
28 4101, 7-7-4404, and 7-12-4102.

1 (3) Bonds issued under this section must be authorized by a resolution of the governing body
 2 stating the purposes, amounts, terms, conditions, and covenants of the municipality, consolidated city-county,
 3 or county that the governing body considers appropriate. The bonds may be sold at a discount at a public or
 4 private sale.

5 (4) For repayment of bonds issued under this section, a municipality, consolidated city-county, or
 6 county may pledge the revenue derived from a local option tax, special assessments, or any other source of
 7 revenue authorized by the legislature to be imposed or collected by the municipality, consolidated city-county,
 8 or county. The bonds do not constitute debt for purposes of any statutory debt limitation provided that, in the
 9 resolution authorizing the issuance of the bonds, the municipality, consolidated city-county, or county
 10 determines that the local option tax revenue, special assessments, or other sources of revenue, if any, pledged
 11 to the payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds when
 12 due.

13 (5) Bonds may not be issued that pledge proceeds of the local option tax for repayment unless the
 14 municipality, consolidated city-county, or county in the resolution authorizing issuance of the bonds determines
 15 that in any fiscal year the annual revenue expected to be derived from the local option tax less the amount
 16 required to provide rebates pursuant to [section 123] equals at least 125% of the average amount of the
 17 principal and interest payable from the local option tax on the bonds and any other outstanding bonds payable
 18 from the local option tax, except any bonds to be refunded upon the issuance of the proposed bonds.

19
 20 **NEW SECTION. Section 123. Local option tax -- property tax relief.** (1) Annually anticipated
 21 receipts from the local option tax must be applied to reduce the property tax levy of the taxing jurisdiction in
 22 which the local option tax is levied for the fiscal year in an amount equal to at least 5% of the local option tax
 23 revenues derived during the preceding fiscal year.

24 (2) A governing body that received more local option tax revenues than had been included in the
 25 annual budget shall establish a property tax relief fund. All local option tax revenues received in excess of the
 26 budget amount must be placed in the fund. The entire fund must be used to replace property taxes in the
 27 ensuing fiscal year.

28

1 **NEW SECTION. Section 124. Coordination with other local option taxes.** (1) To coordinate two or
 2 more local option taxes imposed within the same area, the rate of the local option tax, the duration of the tax,
 3 and restrictions on the use of tax revenue may be changed by submitting the question to the electorate of the
 4 local government that has an existing local option tax. The ballot question may be submitted contingent on
 5 adoption of a local option tax by another entity.

6 (2) A municipality, consolidated city-county, or county local option tax may not be imposed in a
 7 resort community, resort area, or resort area district that existed before [the effective date of this act]. However,
 8 an existing resort community, resort area, or resort area district may elect to terminate its resort tax and subject
 9 itself to a municipal, consolidated city-county, or county local option tax.

10
 11 **Section 125.** Section 7-7-4424, MCA, is amended to read:

12 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b)
 13 and (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
 14 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall
 15 revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
 16 self-supporting.

17 (b) The property taxes specifically authorized to be levied for the general purpose served by an
 18 undertaking ~~or, any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-
 19 1501 through 7-6-1509, or any local option tax approved, levied, and appropriated to any undertaking in
 20 compliance with [sections 117 through 124] constitute revenue of the undertaking and may not result in an
 21 undertaking being considered not self-supporting.

22 (c) Revenue from assessments and fees enacted by local ordinance constitutes revenue of the
 23 undertaking and may not result in an undertaking being considered not self-supporting.

24 (2) The rates, fees, or charges prescribed, along with any appropriated property tax collections, local
 25 option tax collections, or resort tax collections, must produce revenue at least sufficient to:

26 (a) pay when due all bonds and interest on the bonds for the payment of which the revenue has been
 27 pledged, charged, or otherwise encumbered, including reserves for the bonds; and

28 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."

1

2 **Section 126.** Section 7-7-4428, MCA, is amended to read:

3 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
4 authorizing the issuance of bonds under this part may contain covenants as to:

5 (1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the
6 disposition of the proceeds;

7 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
8 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
9 of the property and resort tax revenue referred to in 7-7-4424 or the local option tax revenue referred to in
10 [section 122];

11 (3) the transfer, from the general fund of the municipality to the account or accounts of the
12 undertaking, of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or
13 agencies with the services, facilities, or commodities of the undertaking;

14 (4) the issuance of other or additional bonds payable from the revenue of the undertaking;

15 (5) the operation and maintenance of the undertaking;

16 (6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

17 (7) books of account and the inspection and audit of the books; and

18 (8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the
19 bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

20 (a) enter and take possession of the undertaking;

21 (b) operate and maintain the undertaking;

22 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

23 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner
24 as the municipality itself might do."

25

26 NEW SECTION. **Section 127. Codification instruction.** (1) [Sections 1 through 116] are intended
27 to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 116].

28 (2) [Sections 117 through 124] are intended to be codified as an integral part of Title 7, chapter 6, and

1 the provisions of Title 7, chapter 6, apply to [sections 117 through 124].

2

3 NEW SECTION. Section 128. {standard} Severability. If a part of [this act] is invalid, all valid parts
4 that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
5 applications, the part remains in effect in all valid applications that are severable from the invalid applications.

6

7 NEW SECTION. Section 129. Effective date. [This act] is effective [***]

8

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