

1 HOUSE BILL NO. 5

2 INTRODUCED BY M. LANGE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO TAXATION; CONFORMING STATE
5 WITHHOLDING PROVISIONS TO FEDERAL WITHHOLDING PROVISIONS FOR PENSIONS, ANNUITIES,
6 AND CERTAIN OTHER DEFERRED INCOME; REQUIRING WITHHOLDING AT 30 PERCENT OF THE
7 AMOUNT WITHHELD FOR FEDERAL TAX PURPOSES; PROVIDING A REFUND OF UP TO A TOTAL OF \$400
8 OF 2006 MONTANA PROPERTY TAXES PAID BY A TAXPAYER OR TAXPAYERS ON THE RESIDENCE THAT
9 THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING
10 2006 AND OF CERTAIN 2005 AND 2004 MONTANA PROPERTY TAXES PAID ON THE PRINCIPAL
11 RESIDENCE; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND AND
12 THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED; PROVIDING A REFUNDABLE
13 RENTERS' INCOME TAX CREDIT; LIMITING THE CREDIT TO INDIVIDUALS BELOW A CERTAIN INCOME
14 LEVEL; ALLOWING A REFUNDABLE INCOME TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID
15 ON \$20,000 OF MARKET VALUE OF A PRINCIPAL RESIDENCE ATTRIBUTABLE TO THE 95-MILL
16 STATEWIDE LEVIES TO FUND SCHOOLS; ADOPTING PROVISIONS OF THE MULTISTATE TAX
17 COMMISSION MODEL ACT ON REPORTABLE TRANSACTIONS AND THE MODEL ACT FOR A TAX
18 EVASION TRANSACTION VOLUNTARY COMPLIANCE PROGRAM; REQUIRING TAXPAYERS TO DISCLOSE
19 CERTAIN TRANSACTIONS; REQUIRING MATERIAL ADVISERS TO DISCLOSE CERTAIN TRANSACTIONS;
20 REQUIRING TAX SHELTER PROMOTERS TO DISCLOSE CERTAIN TRANSACTIONS; PROVIDING FOR A
21 VOLUNTARY COMPLIANCE PROGRAM; CREATING THE MONTANA REAL ESTATE BACKUP
22 WITHHOLDING ACT; PROVIDING DEFINITIONS; REQUIRING WITHHOLDING FOR INCOME TAX
23 PURPOSES ON THE GAIN FROM THE SALE OR EXCHANGE OF CERTAIN MONTANA REAL ESTATE;
24 ESTABLISHING A WITHHOLDING TAX RATE; PROVIDING EXCEPTIONS TO WITHHOLDING;
25 ESTABLISHING REPORTING AND REMITTANCE REQUIREMENTS; REQUIRING THAT CERTAIN
26 INFORMATION BE SUBMITTED WITH THE REALTY TRANSFER CERTIFICATE; PROHIBITING THE
27 RECORDING OF A TRANSFER OF MONTANA REAL ESTATE OR A CHANGE IN OWNERSHIP RECORDS
28 OF MONTANA REAL ESTATE FOR PROPERTY TAX PURPOSES IF THE REQUIRED INFORMATION IS NOT
29 PROVIDED; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; CLARIFYING
30 THE LIABILITY OF CLERKS AND RECORDERS; GRANTING AUTHORITY TO THE DEPARTMENT OF

1 REVENUE TO REQUIRE SOCIAL SECURITY NUMBERS OR TAXPAYER IDENTIFICATION NUMBERS IN TAX
2 MATTERS; CLARIFYING THAT SHERIFFS' FEES ARE ADDED TO THE BALANCE OF A WARRANT FOR
3 DISTRAINT; CONFORMING THE TIME TO MAKE A RETURN OF A WARRANT FOR DISTRAINT TO THE TIME
4 THAT THE NOTICE OF LEVY IS EFFECTIVE; ALLOWING A NOTICE OF LEVY OF A WARRANT FOR
5 DISTRAINT TO BE SERVED ELECTRONICALLY; INCREASING THE SCOPE OF RURAL
6 TELECOMMUNICATIONS PROPERTY CLASSIFIED AS CLASS FIVE PROPERTY BY INCREASING THE
7 POPULATION LIMIT FOR CITIES AND TOWNS SERVED TO 10,000; PROVIDING A 10-YEAR EXEMPTION
8 OF 50 PERCENT OF MARKET VALUE FOR NEW RURAL TELECOMMUNICATIONS PROPERTY; DEFINING
9 "NEW RURAL TELECOMMUNICATIONS PROPERTY"; INCREASING THE BUSINESS EQUIPMENT TAX
10 EXEMPTION TO THE FIRST \$65,000 OF MARKET VALUE OF PROPERTY; REQUIRING THAT THE CLASS
11 EIGHT PROPERTY OF RELATED PERSONS BE AGGREGATED IN DETERMINING WHETHER THE \$65,000
12 EXEMPTION THRESHOLD IS EXCEEDED; PROVIDING FOR THE ALLOCATION OF EXEMPT CLASS EIGHT
13 PROPERTY BY LOCATION; PROVIDING A REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX
14 INCREMENT FINANCING DISTRICTS UNDER THE ENTITLEMENT SHARE PAYMENT AND TO SCHOOL
15 DISTRICTS THROUGH GUARANTEED TAX BASE FUNDING FOR THE LOSS OF CLASS EIGHT PROPERTY
16 TAX REVENUE; EXEMPTING FROM TAXATION ITEMS OF PERSONAL PROPERTY WITH A MARKET VALUE
17 OF LESS THAN \$100; CLARIFYING THAT PROPERTY OWNED BY COMMERCIAL MOBILE RADIO SERVICE
18 PROVIDERS IS CENTRALLY ASSESSED FOR PROPERTY TAX PURPOSES; REQUIRING INFORMATION
19 SHARING AMONG STATE AGENCIES; REQUIRING DISCLOSURE OF A PORTION OF THE FEDERAL TAX
20 IDENTIFICATION NUMBER OF A BUSINESS ENTITY ON THE ANNUAL REPORT FILED WITH THE OFFICE
21 OF THE SECRETARY OF STATE; LIMITING DISCLOSURE OF THE FEDERAL TAX IDENTIFICATION
22 NUMBER; AUTHORIZING THE DEPARTMENT OF REVENUE TO DISCLOSE CERTAIN INFORMATION FROM
23 TAX RETURNS AND REPORTS TO THE SECRETARY OF STATE; PROVIDING A 5-YEAR PERIOD OF
24 LIMITATIONS FOR ASSESSMENT, COLLECTION, OR REFUND OF CORPORATION LICENSE TAX;
25 PROVIDING APPROPRIATIONS AND A STATUTORY APPROPRIATION; AMENDING SECTIONS 7-4-2623,
26 15-1-121, 15-1-201, 15-1-706, 15-6-135, 15-6-138, 15-6-219, 15-8-301, 15-10-420, 15-23-101, 15-30-301,
27 15-30-303, 15-31-509, 15-31-511, 15-31-603, 16-11-149, 17-7-502, 20-9-366, 35-1-1104, AND 35-8-208, MCA;
28 AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES."

29

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

1
2 **NEW SECTION. Section 1. Withholding from pensions, annuities, and certain other deferred**

3 **income.** (1) In conformity with section 3405 of the Internal Revenue Code, 26 U.S.C. 3405, the payor of any
4 periodic payment, nonperiodic distribution, or designated distribution, as defined in that section, shall:

5 (a) withhold from the payment 30% of the amount, if any, withheld for federal tax purposes; and

6 (b) withhold the amount in subsection (1)(a) and is liable for payment of the tax when required to withhold
7 the amount for federal purposes.

8 (2) If a periodic payment, nonperiodic distribution, or designated distribution is not subject to federal
9 withholding because a federal election of no withholding was made under section 3405 of the Internal Revenue
10 Code, 26 U.S.C. 3405, then state withholding is not required and the amount withheld is considered zero.

11 (3) Amounts withheld under this section must be treated as if the amounts were withheld from wages paid
12 by an employer to an employee subject to withholding under 15-30-202.

13
14 **NEW SECTION. Section 2. Definitions.** As used in [sections 2 through 5], the following definitions
15 apply:

16 (1) "Montana property taxes" means the ad valorem property taxes imposed on property classified under
17 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile
18 home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a
19 dwelling and that were assessed in the specified calendar year.

20 (2) "Owned" includes purchasing under a contract for deed and being the grantor or grantors under a
21 trust indenture.

22
23 **NEW SECTION. Section 3. Property tax refund -- manner of claiming -- limitations --**

24 **appropriation.** (1) (a) A refund of up to \$400 of 2006 Montana property taxes assessed to and paid by a taxpayer
25 or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months
26 during 2006 may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3).

27 (b) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence
28 they owned and occupied as their principal residence for at least 7 months during 2006 were more than \$25 and
29 less than \$400, a refund of the 2005 Montana property taxes assessed to and paid by the taxpayer or taxpayers
30 on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during

1 2005, may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an
 2 amount that together with the refund under subsection (1)(a) does not exceed \$400.

3 (c) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence
 4 they owned and occupied as their principal residence for at least 7 months during 2006, together with the 2005
 5 Montana property taxes allowed as a refund under subsection (1)(b), were more than \$50 and less than \$400,
 6 a refund of the 2004 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal
 7 residence, if they owned and occupied it as their principal residence for at least 7 months during 2004, may be
 8 claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that
 9 together with the refund under subsections (1)(a) and (1)(b) does not exceed \$400.

10 (2) (a) Subject to subsection (2)(b), the claim for refund, in the form that the department prescribes, must
 11 be executed by each taxpayer under penalty of false swearing and must include the information that the
 12 department requires.

13 (b) The personal representative of the estate of a deceased taxpayer may execute and file the claim for
 14 refund on behalf of a deceased taxpayer who qualifies for the refund.

15 (3) The claim for a refund is subject to the following limitations:

16 (a) The claim must be filed with the department of revenue on or before December 31, 2007, unless the
 17 department, for good cause shown, grants a reasonable extension of time for filing.

18 (b) Only one claim may be made with respect to any property.

19 (c) The claims by a taxpayer or taxpayers for 2006, 2005, and 2004 must be for the same property.

20 (4) The payment of property tax refunds under this section is statutorily appropriated, as provided in
 21 17-7-502, from the general fund to the department of revenue for distribution to taxpayers.

22
 23 **NEW SECTION. Section 4. Property tax refund -- penalty for false or fraudulent claim.** A person
 24 who files a false or fraudulent claim for a property tax refund under [section 3] or a renter's credit under [section
 25 5] is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid,
 26 the amount paid may be recovered as any other tax owed the state, together with a penalty of 25% and interest
 27 on the amount of the refund at the rate of 12% a year, until paid.

28
 29 **NEW SECTION. Section 5. Renter's tax credit -- eligibility -- requirements -- limitations -- refund.**

30 (1) Except as provided in subsections (6) and (7) and subject to the provisions of this section, an individual

1 required to file a return under chapter 30 is allowed a renter's credit in an amount equal to 3% of the gross rent
2 paid by the taxpayer in the tax year that the taxpayer rented a dwelling or dwellings as the taxpayer's principal
3 residence for at least 7 months during the tax year. The maximum credit allowed under this section is \$120.

4 (2) In order to be eligible to make a claim for a credit under this section, the taxpayer must have:

5 (a) resided in Montana for at least 9 months of the tax year for which the claim is made; and

6 (b) occupied one or more dwellings in the state as a renter or lessee for at least 7 months of the tax year.

7 (3) A taxpayer is not disqualified from claiming the credit under this section because of a change of
8 residence during the tax year if the taxpayer occupied one or more dwellings in Montana as a renter or lessee
9 for at least 7 months during the tax year.

10 (4) (a) A receipt or other evidence of gross rent paid must be filed with the claim for a credit. In addition,
11 each taxpayer shall, at the request of the department, supply all additional information to support the claim.

12 (b) If two or more individuals are sharing a dwelling, each individual may claim the credit based on the
13 proportional share that the individual pays of the gross rent.

14 (5) If the amount of credit exceeds the taxpayers' tax liability under this chapter, the amount of the excess
15 must be refunded to the taxpayer.

16 (6) A claim for a credit is not allowed under this section if the individual's adjusted gross income is
17 greater than \$45,000. For married taxpayers filing jointly or separately on the same form, the credit is not allowed
18 under this section if the combined adjusted gross income is greater than \$45,000.

19 (7) A taxpayer who receives a residential property tax credit for the elderly under 15-30-171 through
20 15-30-179 may not claim the credit under this section for the tax year.

21 (8) For the purposes of this section, the following definitions apply:

22 (a) "Dwelling" means:

23 (i) a single-family dwelling or unit of a multiple-unit dwelling and as much of the surrounding land, but
24 not in excess of 1 acre, as is reasonably necessary for its use as a dwelling;

25 (ii) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal
26 housing authority as provided in Title 7, chapter 15; or

27 (iii) a single-family dwelling or unit of a multiple-unit dwelling in which any portion of the individual's rent
28 payment is derived from rent equivalent payments or from a public rent or tax subsidy program.

29 (b) "Gross rent" has the meaning provided in 15-30-171.

30 (c) "Rent equivalent" means a rental payment paid by a governmental agency to a lessor or landlord.

1
2 **NEW SECTION. Section 6. Short title -- purpose.** (1) [Sections 6 through 12] may be cited as "The
3 Reportable Transaction Act".

4 (2) The purpose of enacting [sections 6 through 12] is to address reportable transactions and tax
5 evasion. [Sections 6 through 12] are not intended to prevent taxpayers from minimizing their taxes in compliance
6 with the law.

7
8 **NEW SECTION. Section 7. Definitions.** As used in [sections 6 through 12], the following definitions
9 apply:

10 (1) "Disqualified opinion" has the meaning provided in section 6664(d)(3)(b)(iii) of the Internal Revenue
11 Code, 26 U.S.C. 6664(d)(3)(b)(iii).

12 (2) "Disqualified tax adviser" has the meaning provided in section 6664(d)(3)(b)(ii) of the Internal
13 Revenue Code, 26 U.S.C. 6664(d)(3)(b)(ii).

14 (3) "Gross valuation overstatement" has the meaning provided in section 6700(b) of the Internal Revenue
15 Code, 26 U.S.C. 6700(b), and also means any statement as to the value of any property or services if:

- 16 (a) the stated value exceeds 200% of the amount determined to be the correct valuation; and
 - 17 (b) the value of the property or services is directly related to the amount of any deduction or credit
- 18 allowable under Title 15, chapter 30 or 31, to any participant.

19 (4) "Internal Revenue Code" has the meaning provided in 15-30-101.

20 (5) "Listed transaction" has the meaning provided in section 6707A(c)(2) of the Internal Revenue Code,
21 26 U.S.C. 6707A(c)(2), and also means a reportable transaction that is the same as or substantially similar to a
22 transaction or arrangement specifically identified by the department pursuant to [section 12] as a tax evasion
23 transaction.

24 (6) "Material adviser" has the meaning provided in section 6111(b)(1) of the Internal Revenue Code, 26
25 U.S.C. 6111(b)(1).

26 (7) "Reportable transaction" has the meaning provided in section 6707A(c)(1) of the Internal Revenue
27 Code, 26 U.S.C. 6707A(c)(1). A reportable transaction includes but is not limited to:

- 28 (a) any transaction or arrangement described in U.S. Treasury Regulations 1.6011-4(b)(1) through
- 29 1.6011-4(b)(7), 26 CFR 1.6011-4(b)(1) through (b)(7); and
- 30 (b) a listed transaction.

1 (8) "Tax shelter" has the meaning provided in section 6662(d)(2)(c)(ii) of the Internal Revenue Code, 26
2 U.S.C. 6662(d)(2)(c)(ii), and also means a partnership or other entity, any investment plan or arrangement, or
3 any other plan or arrangement if a significant purpose of the partnership, entity, plan, or arrangement is the
4 evasion of a tax imposed by Title 15, chapter 30 or 31. As used in this subsection, "significant purpose" has the
5 same meaning given the term under federal tax law.

6

7 **NEW SECTION. Section 8. Taxpayer responsibility for disclosure of reportable transactions --**
8 **penalties -- waiver -- extension of statute of limitations.** (1) For each tax year in which a taxpayer, a
9 pass-through entity, a federal consolidated group of which a taxpayer is a member, or a member of a unitary
10 group of which a taxpayer is a member has participated in a reportable transaction, including a listed transaction,
11 the taxpayer, pass-through entity, federal consolidated group, or unitary group is required to disclose the
12 transaction as provided in subsection (2). In addition, for each tax year in which a taxpayer, a pass-through entity,
13 a federal consolidated group of which a taxpayer is a member, or a member of a unitary group of which a
14 taxpayer is a member is required to make a disclosure statement under U.S. treasury regulation 1.6011-4, 26
15 CFR 1.6011-4, with respect to a reportable transaction, including a listed transaction, in which the taxpayer,
16 pass-through entity, federal consolidated group, or unitary group participated, the taxpayer, pass-through entity,
17 federal consolidated group, or unitary group shall file a copy of the disclosure with the department as provided
18 in subsection (2).

19 (2) (a) Reportable transactions, including listed transactions, must be disclosed in the manner prescribed
20 in U.S. treasury regulations 1.6011-4, 26 CFR 1.6011-4, and department rules. A taxpayer who is an individual
21 is required to disclose only transactions that are required to be disclosed as listed transactions or reportable
22 transactions for federal income tax purposes.

23 (b) (i) With respect to a listed transaction entered into after February 28, 2000, but on or before December
24 31, 2006, disclosure must be made on or before the due date of and attached to the taxpayer's original and any
25 amended Montana individual income or corporation license tax or pass-through entity information return for tax
26 year 2006 and to the original and any amended Montana income or corporation license tax or pass-through entity
27 information return for any subsequent tax year that reflects a reduction in Montana tax resulting from the listed
28 transaction, including a loss, deduction, or credit resulting from a reportable transaction that is being carried
29 forward or back.

30 (ii) With respect to a reportable transaction, including a listed transaction, entered into after December

1 31, 2006, disclosure must be attached to the taxpayer's original and any amended Montana individual income
2 or corporation license tax or pass-through entity information return for the tax year during which the transaction
3 was entered into and to the original and any amended Montana individual income or corporation license tax or
4 pass-through entity information return for any later tax year that reflects a reduction in tax resulting from the
5 reportable or listed transaction, including a loss, deduction, or credit that is being carried forward or carried back
6 and that is a result of the transaction.

7 (iii) Disclosure of a reportable transaction entered into after February 28, 2000, must also be attached
8 to any amended Montana individual income or corporation license tax or pass-through entity information return
9 filed after December 31, 2006, if the filing reflects a determination by the internal revenue service of the federal
10 tax treatment of a reportable transaction.

11 (3) The provisions of subsections (1) and (2) apply to any reportable transaction entered into after
12 February 28, 2000, for any tax year or years for which the transaction remains undisclosed and for which the
13 statute of limitations on assessment, taking into account the extension provided under subsection (12), has not
14 expired as of [60 days after the effective date of sections 6 through 12].

15 (4) (a) A person who does not include on a return or statement information with respect to a reportable
16 transaction that is required under subsection (2) or (3) to be included with the return or statement shall pay a
17 penalty, in addition to any other penalty imposed, in the amount determined under subsections (4)(b) and (4)(c).

18 (b) Except as provided in subsection (4)(c), the amount of the penalty imposed under subsection (4)(a)
19 is \$10,000 in the case of an individual and \$50,000 in any other case.

20 (c) With respect to a listed transaction, the amount of the penalty under subsection (4)(a) is \$100,000
21 in the case of an individual and \$200,000 in any other case.

22 (5) A penalty imposed under subsection (4) is considered assessed on the due date of the tax return
23 upon or attached to which the disclosure of the reportable transaction was required pursuant to this section and
24 department rules.

25 (6) The department may waive all or any portion of any penalty imposed by this section with respect to
26 any violation if:

27 (a) the violation is with respect to a reportable transaction other than a listed transaction; and

28 (b) rescinding the penalty would promote compliance with the requirements of Title 15, chapter 30 or 31,
29 and effective tax administration.

30 (7) The penalty imposed under subsection (4) applies to any failure to disclose any listed transaction

1 entered into after February 28, 2000, or any other reportable transaction entered into after [the effective date of
2 sections 6 through 12] for any tax year or years for which the transaction remains undisclosed and for which the
3 statute of limitations on assessment, taking into account the extension provided under subsection (12), has not
4 expired as of [60 days after the effective date of sections 6 through 12].

5 (8) (a) If a taxpayer has a reportable transaction understatement for any tax year as determined under
6 subsection (8)(b), there must be added to the tax a penalty in an amount equal to 20% of the amount of the
7 understatement. If the requirements of subsection (1) are not met, the percentage to be used for the penalty
8 determination is 30% with respect to the portion of any reportable transaction understatement.

9 (b) (i) Except as provided by department rule, a tax treatment included with an amendment or supplement
10 to a return of tax may not be taken into account in determining the amount of any reportable transaction
11 understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted
12 by the department regarding the examination of the return or any other date that is adopted by rule pursuant to
13 [section 12].

14 (ii) A reportable transaction understatement is the sum of:

15 (A) the product of:

16 (I) the highest rate of tax imposed by 15-30-103 if the taxpayer is an individual and 15-31-121 if the
17 taxpayer is a C. corporation; and

18 (II) the amount of the increase, if any, in Montana taxable income, as determined under subsection (8)(c),
19 that results from a difference between the proper tax treatment of an item to which subsection (3) applies and
20 the taxpayer's treatment of that item as shown on the taxpayer's return of tax, including an amended return if the
21 amended return is filed prior to the date that the taxpayer is first contacted by the department regarding the
22 examination of the tax year for which the amended return is filed; and

23 (B) the amount of the decrease, if any, in the aggregate amount of credits that results from a difference
24 between the taxpayer's treatment of an item to which subsection (3) applies as shown on the taxpayer's return
25 of tax and the proper tax treatment of that item.

26 (c) The amount of the increase in Montana taxable income for a particular tax year includes the
27 restatement for another tax year to which a loss or deduction is carried forward or carried back that is attributable
28 to the reportable transaction for that year in which the carryforward or carryback of the loss or deduction applies.
29 Any reduction of the excess of deductions allowed for the tax year over gross income for the year and any
30 reduction in the amount of capital losses that would be allowed for the year are treated as an increase in taxable

1 income.

2 (d) This subsection (8) applies to any item that is attributable to:

3 (i) any listed transaction; and

4 (ii) any reportable transaction, other than a listed transaction, if section 6662A of the Internal Revenue
5 Code, 26 U.S.C. 6662A, applies to the transaction or if a significant purpose of the transaction is the evasion of
6 Montana income or corporation license tax.

7 (e) A penalty imposed under this subsection (8) is considered assessed on the due date of the Montana
8 tax return that shows the understatement of tax resulting from a reportable transaction to which the penalty
9 relates.

10 (9) (a) For an amended return filed after December 31, 2007, and before the taxpayer is contacted by
11 the U.S. internal revenue service or the department regarding a reportable transaction, there must be added to
12 any reportable transaction understatement, as determined under subsection (8)(b), a penalty, in addition to all
13 other applicable penalties, equal to 50% of the interest assessed under 15-1-216 for the period beginning on the
14 last date prescribed by law for the payment of the tax, determined without regard to extensions and ending on
15 the date of payment.

16 (b) If the taxpayer has been contacted by the internal revenue service or the department regarding a
17 reportable transaction, there must be added to any reportable transaction understatement, as determined under
18 subsection (8)(b), a penalty, in addition to any other applicable penalties, equal to 100% of the interest assessed
19 under 15-1-216 for the period beginning on the last date prescribed by law for the payment of the tax, determined
20 without regard to extensions and ending on the date the notice of proposed assessment is mailed.

21 (10) (a) Except as provided in subsection (10)(b), the department may waive all or any portion of any
22 penalty imposed by subsections (8) and (9) with respect to any portion of a reportable transaction understatement
23 if it is shown that the taxpayer had a reasonable basis for the tax treatment applicable to that portion and acted
24 in good faith with respect to that treatment.

25 (b) Subsection (10)(a) does not apply to any reportable transaction understatement unless:

26 (i) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with
27 all requirements of subsection (1) and department rules or the penalty for the taxpayer's failure to fully disclose
28 was waived pursuant to subsection (6);

29 (ii) there is or was substantial authority for the tax treatment; and

30 (iii) the taxpayer reasonably believed that the tax treatment was more likely than not the proper tax

1 treatment, but only if the belief:

2 (A) is based on the facts and law that exist at the time the return that includes the tax treatment is filed;

3 (B) relates solely to the taxpayer's chances of success on the merits of the tax treatment and does not
4 take into account the possibility that a return will not be audited, the tax treatment will not be raised on audit, or
5 the tax treatment will be resolved through settlement if it is raised; and

6 (C) does not rely upon the opinion of a disqualified tax adviser or on a disqualified opinion.

7 (11) A penalty imposed under subsections (8) and (9) applies to any understatement of tax resulting from
8 a listed transaction entered into after February 28, 2000, or from any other reportable transaction entered into
9 after [the effective date of sections 6 through 12] in any tax year or years for which the statute of limitations on
10 assessment, taking into account the extension provided in subsection (12), has not expired as of [the effective
11 date of sections 6 through 12].

12 (12) If a taxpayer does not include on a return or statement for any tax year information about a listed
13 transaction required under subsection (1), the time for assessment of a tax imposed by Title 15, chapter 30 or
14 31, with respect to that transaction does not expire before the date that is 1 year after the earlier of the date:

15 (a) on which the department is furnished the information required; or

16 (b) that a material adviser meets the requirements of [section 9] with respect to a request by the
17 department under [section 9(3)] relating to the transaction with respect to the taxpayer.

18

19 **NEW SECTION. Section 9. Material adviser responsibility for disclosure of reportable**
20 **transactions and maintenance of advisee lists -- penalties -- waiver.** (1) (a) With respect to any reportable
21 transaction, a material adviser shall make a return in the form that the department prescribes setting forth:

22 (i) information identifying and describing the transaction;

23 (ii) information describing any potential tax benefits expected to result from the transaction; and

24 (iii) any other information that the department may prescribe.

25 (b) A material adviser who is required to disclose a reportable transaction pursuant to section 6111 of
26 the Internal Revenue Code, 26 U.S.C. 6111, shall file a copy of the disclosure with the department.

27 (c) The return required by subsection (1)(a) and disclosure required by subsection (1)(b) must be filed
28 not later than the date specified by the department.

29 (d) The department may adopt rules that provide:

30 (i) that only one person is required to meet the requirements of this subsection (1) in cases in which two

1 or more persons would otherwise be required to meet the requirements; and

2 (ii) exemptions from the requirements of this subsection (1).

3 (2) (a) Each material adviser with respect to any reportable transaction shall, whether or not required to
4 file a return under subsection (1)(a), maintain a list identifying each Montana taxpayer, pass-through entity,
5 member of a federal consolidated group, or member of a unitary group for whom the adviser has acted as a
6 material adviser with respect to the transaction.

7 (b) The list required under subsection (2)(a) must include the same information and must be maintained
8 in the same form and manner as required under section 6112 of the Internal Revenue Code, 26 U.S.C. 6112, U.S.
9 treasury regulation 301.6112-1, 26 CFR 301.6112-1, and any additional information or maintenance requirements
10 as the department may by rule require.

11 (3) A person required to maintain a list under subsection (2)(a):

12 (a) shall make the list available to the department upon written request; and

13 (b) except as otherwise provided by the department by rule, shall retain any information that is required
14 to be included on the list for 7 years.

15 (4) The department may, by rule, provide that in cases in which two or more persons are required to
16 maintain the same list or a portion of the list under subsection (2), only one person is required to maintain the list
17 or portion of the list.

18 (5) (a) If a person who is required to file a return or disclosure under subsection (1) with respect to any
19 reportable transaction does not file the return or disclosure on or before the due date or files false or incomplete
20 information with the department with respect to the transaction, the person shall pay a penalty with respect to the
21 return or disclosure in the amount determined under subsections (5)(b) and (5)(c).

22 (b) Except as provided in subsection (5)(c), the penalty imposed under subsection (5)(a) with respect
23 to any failure is \$50,000.

24 (c) The penalty imposed under subsection (5)(a) with respect to any listed transaction is an amount equal
25 to the greater of:

26 (i) \$200,000; or

27 (ii) except as provided in subsection (5)(d), 50% of the gross income derived by the person with respect
28 to aid, assistance, or advice that is provided with respect to the listed transaction before the date the return and,
29 if applicable, disclosure is filed under subsection (1).

30 (d) For an intentional failure or act described in subsection (5)(a), the percentage amount for the penalty

1 computation in subsection (5)(c)(ii) is 75%.

2 (e) If a person is required to maintain a list under subsection (2) but does not make the list available upon
3 written request to the department in accordance with subsection (3) within 20 business days after the date of the
4 request, the person shall pay a penalty of \$10,000 for each day the list is not made available after the 20-day
5 period has expired.

6 (6) Each of the penalties imposed by subsection (5) is in addition to any other applicable penalties.

7 (7) The department may waive all or any portion of penalty imposed under subsection (5):

8 (a) with respect to any violation of subsection (1) if:

9 (i) the violation relates to a reportable transaction other than a listed transaction; and

10 (ii) a waiver of the penalty would promote compliance with the requirements of Title 15, chapters 30 and
11 31, and effective tax administration; and

12 (b) with respect to any violation of subsection (2), if on any day the violation was due to a reasonable
13 cause.

14 (8) The provisions of this section apply to transactions with respect to which material aid, assistance,
15 or advice is provided by a material adviser after [the effective date of sections 6 through 12].

16
17 **NEW SECTION. Section 10. Tax shelters -- penalty for promotion.** (1) The penalty provided in
18 subsection (3) must be paid by a person who:

19 (a) (i) organizes or assists in the organization of:

20 (A) a partnership or other entity;

21 (B) any investment plan or arrangement; or

22 (C) any other plan or arrangement; or

23 (ii) participates, directly or indirectly, in the sale of any interest in an entity, plan, or arrangement referred
24 to in subsection (1)(a); and

25 (b) makes or furnishes or causes another person to make or furnish in connection with the organization
26 or sale:

27 (i) a statement with respect to the allowability of any deduction or credit, the excludability of any income,
28 the manipulation of any allocation or apportionment rule, or the securing of any other tax benefit by reason of
29 holding an interest in the entity or participating in a plan or arrangement that the person knows or has reason to
30 know is false or fraudulent as to any material matter; or

- 1 (ii) a gross valuation overstatement as to any material matter.
- 2 (2) Activities described in subsection (1)(a) with respect to each entity or arrangement must be treated
3 as a separate activity, and participation in each sale described in subsection (1)(b) must be treated as a separate
4 activity.
- 5 (3) A person described in subsection (1) shall pay, with respect to each activity described in subsection
6 (1)(a) and in addition to any other penalty provided by law, a penalty equal to:
- 7 (a) the lesser of:
- 8 (i) \$1,000; or
- 9 (ii) 100% of the gross income derived or to be derived by the person from the activity; or
- 10 (b) if an activity with respect to which a penalty imposed under this subsection (3) involves a disclosure
11 described in subsection (1)(b), a penalty of 50% of the gross income derived or to be derived from the activity
12 by the person on which the penalty is imposed.
- 13 (4) The department may waive all or any part of the penalty provided for in subsection (3) with respect
14 to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that
15 the valuation was made in good faith.
- 16 (5) A privilege of confidentiality does not apply to any written communication that is:
- 17 (a) between a tax practitioner and:
- 18 (i) any person;
- 19 (ii) the department or any officer, employee, agent, or representative of the person; or
- 20 (iii) any other person holding a capital or profits interest in the person; and
- 21 (b) in connection with the promotion of the direct or indirect participation of the person in any tax shelter.
- 22 (6) The provisions of this section apply to activities after [the effective date of sections 6 through 12].

23

24 **NEW SECTION. Section 11. Injunction of certain conduct related to reportable transactions and**

25 **tax shelters.** (1) A civil action in the name of the state to enjoin any person from further engaging in conduct

26 specified in subsection (3) may be commenced at the request of the department. If the person is an individual

27 who resides in Montana, an action under this section must be brought in the county in which the individual

28 resides. If the person is not an individual who resides in Montana, an action under this section must be brought

29 in the first judicial district court of Lewis and Clark County. The court may exercise its jurisdiction over the action

30 separate and apart from any other action brought by the state against the person.

1 (2) In any action under this section, if the court finds that the person has engaged in the conduct
2 specified in subsection (3) and that injunctive relief is appropriate to prevent recurrence of that conduct, the court
3 may enjoin the person from engaging in that conduct or in any other activity subject to penalty under [sections
4 6 through 12].

5 (3) Conduct subject to injunction under this section is any action or failure to take action that is:

6 (a) subject to penalty under [sections 6 through 12]; or

7 (b) in violation of any requirement under rules issued pursuant to [sections 6 through 12].

8

9 **NEW SECTION. Section 12. Tax evasion transactions -- department rules.** (1) The department may
10 not specifically identify a transaction or arrangement as a tax evasion transaction unless the department:

11 (a) consults with the multistate tax commission to promote uniformity;

12 (b) considers whether the transaction or arrangement involves some combination of the following:

13 (i) lacks meaningful economic risk of loss or potential for gain;

14 (ii) results in purposely inconsistent financial and accounting treatment;

15 (iii) involves complexity, unnecessary steps, or novel investments;

16 (iv) uses tax indifferent parties; or

17 (v) was marketed to multiple investors;

18 (c) considers whether disclosure of the transaction is limited in any manner by express or implied
19 understanding or agreement, whether or not the understanding or agreement is legally binding;

20 (d) considers whether the taxpayer has the right to a full or partial refund of fees paid to any person who
21 makes or provides an oral or written statement about the potential tax consequences of a transaction if it is not
22 sustained or if fees are contingent on the taxpayer's realization of tax benefits from the transaction; and

23 (e) determines and considers the costs of taxpayer compliance.

24 (2) The department shall by rule identify each transaction or arrangement specifically identified by the
25 department pursuant to subsection (1) as a tax evasion transaction.

26 (3) The department shall file a report with each rule proposal notice when it proposes to adopt a rule to
27 identify a listed transaction, setting forth how it applied the criteria listed in subsection (1) in proposing to identify
28 a transaction or arrangement as a listed transaction.

29 (4) In adopting rules pursuant to [sections 6 through 12], the department shall determine and consider
30 the costs of taxpayer compliance.

1
 2 **NEW SECTION. Section 13. Short title.** [Sections 13 through 15] may be cited as "The Act for Tax
 3 Evasion Transaction Voluntary Compliance Program".

4
 5 **NEW SECTION. Section 14. Definitions.** As used in [sections 13 through 15], the following definitions
 6 apply:

7 (1) "Eligible taxpayer" means any taxpayer who, during the period from September 1, 2007, through
 8 December 31, 2007, does both of the following:

9 (a) files an amended Montana tax return for each tax year for which the taxpayer has previously filed a
 10 Montana tax return that used a tax evasion transaction to underreport the taxpayer's income or corporation
 11 license tax liability reporting the total Montana net income and tax for the tax year computed without regard to
 12 any tax evasion transactions and without regard to any other adjustments that are unrelated to tax evasion
 13 transactions; and

14 (b) makes full payment or enters into an installment payment agreement as provided in [section 15(6)]
 15 for payment of the entire amount of Montana income or corporation license tax and interest due for each tax year
 16 that is attributable to the use of the tax evasion transaction.

17 (2) "Program" means the voluntary compliance program established in [sections 13 through 15].

18 (3) "Tax evasion transaction" means a transaction, plan, or arrangement devised for the principal
 19 purpose of evading federal income tax or Montana income or corporation license tax. A tax evasion transaction
 20 includes but is not limited to a reportable transaction as defined in [section 7], including a listed transaction as
 21 defined in [section 7].

22
 23 **NEW SECTION. Section 15. Tax evasion transaction voluntary compliance program.** (1) There is
 24 a tax evasion transaction voluntary compliance program for eligible taxpayers subject to tax under Title 15,
 25 chapter 30 or 31, as provided in [sections 13 through 15]. The department shall develop and administer the
 26 program. The program must be conducted from September 1, 2007, through December 31, 2007, and applies
 27 to tax liabilities attributable to the use of tax evasion transactions for tax years beginning before January 1, 2007.
 28 The department shall adopt rules, issue forms and instructions, and take any other action that it considers
 29 necessary to implement the program.

30 (2) An eligible taxpayer may elect to participate in the program with respect to any tax year to which the

1 program applies under either subsection (3) or (4). The election must be made for all tax years for which the
2 taxpayer will participate, and a separate election for different tax years or for different transactions in different tax
3 years is not allowed. The election must be made in the form and manner prescribed by the department and, once
4 made, is irrevocable.

5 (3) If an eligible taxpayer elects to participate under this subsection (3):

6 (a) the department shall waive all penalties applicable to the underreporting or underpayment of Montana
7 income or corporation license tax attributable to the use of tax evasion transactions for the tax years for which
8 the taxpayer voluntarily complies, including penalties imposed under [sections 6 through 12];

9 (b) except as otherwise provided in this section, the department may not seek criminal prosecution
10 against the taxpayer for the tax year underreporting and underpayment with respect to tax evasion transactions
11 for which the taxpayer voluntarily complies;

12 (c) a penalty may not be waived under this section if the penalty imposed relates to an amount of
13 Montana income or corporation license tax assessed or paid prior to September 1, 2007; and

14 (d) the taxpayer may not file a claim for credit or refund with respect to the tax evasion transactions for
15 that tax year or for any amounts paid under the program.

16 (4) If an eligible taxpayer elects to participate under this subsection (4):

17 (a) the department shall waive any penalty imposed under [sections 6 through 12] with respect to
18 disclosure of tax evasion transactions and underpayment of Montana income and corporation license tax resulting
19 from the use of tax evasion transactions for any tax years for which the taxpayer voluntarily complies, but may
20 not waive penalties imposed prior to [the effective date of sections 6 through 12];

21 (b) except as otherwise provided in subsection (5) or (6), the department may not seek criminal
22 prosecution against the taxpayer for the tax year underreporting and underpayment with respect to tax evasion
23 transactions for which the taxpayer voluntarily complies;

24 (c) a penalty may not be waived under this section if the penalty imposed relates to an amount of
25 Montana income or corporation license tax assessed or paid prior to September 1, 2007;

26 (d) the fact a taxpayer participated in the program may not be considered evidence the taxpayer engaged
27 in a tax evasion transaction;

28 (e) any penalties that are not waived are considered assessed upon the due date of the return,
29 determined without regard to extensions, upon which the amount should have been paid;

30 (f) the taxpayer may file a claim for credit or refund as provided in Title 15, chapter 30 or 31, with respect

1 to the tax year; and

2 (g) notwithstanding 15-1-211, the taxpayer may not file an appeal until after either of the following:

3 (i) the department issues a final determination with respect to the transactions at issue; or

4 (ii) the earlier of:

5 (A) the date that is 180 days after the date of a final determination by the internal revenue service with
6 respect to the transactions at issue; or

7 (B) the date that is 4 years after the date that the claim for refund was filed or 1 year after the full
8 payment of all Montana income or corporation license tax, including penalty and interest.

9 (5) The provisions of 15-1-211(2)(c) and (4)(c) and 15-2-302(2) do not apply to claims filed under this
10 section.

11 (6) The department may enter into an installment payment agreement in lieu of full payment of the entire
12 amount of Montana income or corporation license tax and interest due for the tax year that is attributable to the
13 use of the tax evasion transaction. Any installment payment agreement authorized by this subsection must
14 include interest on the unpaid amount at the rate prescribed by 15-1-216. Failure by the taxpayer to fully comply
15 with the terms of the installment payment agreement renders the waiver of penalties void, and the total amount
16 of tax, interest, and all penalties is immediately due and payable.

17 (7) After December 31, 2007, the department may issue a deficiency assessment upon an amended
18 return filed by an eligible taxpayer, impose penalties, or initiate criminal action with respect to the difference
19 between the amount shown on that return and the correct amount of tax. The penalty relief provided in subsection
20 (3) or (4) does not apply to any portion of the underpayment attributable to a tax evasion transaction not paid to
21 the state.

22 (8) Any correspondence mailed by the department to a taxpayer at the taxpayer's last-known address
23 outlining the program constitutes a contact for purposes of [section 8(9)].

24 (9) (a) In addition to any other authority to examine returns for the purpose of improving state tax
25 administration, the department may inquire into the facts and circumstances related to the use of tax evasion
26 transactions to underreport the tax liabilities for which a taxpayer has participated in the program under [sections
27 13 through 15].

28 (b) A taxpayer shall cooperate fully with inquiries described in subsection (9)(a).

29 (c) Failure by a taxpayer to fully cooperate in an inquiry described in subsection (9)(a) renders the waiver
30 of penalties under [sections 13 through 15] void, and the taxpayer may be assessed any penalties that may apply.

1
2 **NEW SECTION. Section 16. Short title.** [Sections 16 through 21] may be cited as the "Montana Real
3 Estate Backup Withholding Act".

4
5 **NEW SECTION. Section 17. Definitions.** As used in [sections 16 through 21], the following definitions
6 apply:

7 (1) "Certified calculated gain" means the gain the transferor certifies in writing to the department, under
8 penalty of false swearing as provided in 45-7-202, that the transferor will realize on a disposition of Montana real
9 estate.

10 (2) "Improvements" has the meaning provided in 15-1-101.

11 (3) "Montana real estate" means real estate or improvements located in Montana.

12 (4) "Principal residence" means a principal residence within the meaning of section 121 of the Internal
13 Revenue Code, 26 U.S.C. 121.

14 (5) "Real estate" has the meaning provided in 15-1-101.

15 (6) "Sales price" means the total consideration for the transfer of Montana real estate, including the
16 market value of any property transferred to the transferor, and any liability assumed or taken subject to the sales
17 price.

18 (7) "Transferor" means any person or entity disposing of Montana real estate.

19
20 **NEW SECTION. Section 18. Withholding required on sale or exchange of Montana real estate --**
21 **rate.** Except as provided in [section 19], there must be withheld from the proceeds from a sale or exchange of
22 Montana real estate an amount equal to the lesser of:

23 (1) 2.5% of the sales price of the Montana real estate conveyed; or

24 (2) the amount of the transferor's certified calculated gain multiplied by the highest rate of tax provided
25 for in 15-30-103.

26
27 **NEW SECTION. Section 19. Withholding -- application not required.** Withholding is not required on
28 the transfer of Montana real estate under the provisions of [section 18] if:

29 (1) the sales price of the Montana real estate conveyed is less than \$100,000;

30 (2) the transfer occurs:

- 1 (a) pursuant to a power of sale under a mortgage or deed of trust;
- 2 (b) as the result of a decree of foreclosure; or
- 3 (c) by deed in lieu of foreclosure; or
- 4 (3) the transferor establishes that:
 - 5 (a) the transferor is an individual who is a Montana resident;
 - 6 (b) the Montana real estate being transferred is the principal residence of the transferor or was the
 - 7 principal residence of a decedent;
 - 8 (c) the last use of the property being transferred was by the transferor as the transferor's principal
 - 9 residence;
 - 10 (d) the Montana real estate has been compulsorily or involuntarily converted within the meaning of
 - 11 section 1033 of the Internal Revenue Code, 26 U.S.C. 1033, and the transferor intends to acquire property similar
 - 12 or related in service or use so that the gain is not recognized under the provisions of section 1033 of the Internal
 - 13 Revenue Code, 26 U.S.C. 1033;
 - 14 (e) the Montana real estate is being relinquished in an exchange in which gain and loss is not recognized
 - 15 pursuant to section 1031 of the Internal Revenue Code, 26 U.S.C. 1031; or
 - 16 (f) the transferor is a corporation, a pass-through entity, or a disregarded entity incorporated or organized
 - 17 under the laws of the state of Montana.

18

19 **NEW SECTION. Section 20. Reporting and remittance.** (1) The transferor shall report to the

20 department under oath, on a form prescribed by the department, all information necessary to compute the amount

21 withheld pursuant to [section 18] or to establish that the transferor is not required to withhold pursuant to [section

22 19].

23 (2) Within 5 business days of closing on the sale or exchange of Montana real estate, the transferor shall

24 file the report and remit the amount withheld, if any, to the department.

25 (3) A copy of the report and a copy of the payment, if any, for withholding must be attached to the realty

26 transfer certificate required by 15-7-305. The county clerk and recorder may not record any deed or other

27 instrument transferring title to Montana real estate if the copies required by this section are not provided.

28 (4) The department may not change any ownership records used for the assessment or taxation of

29 Montana real estate unless the copies required by subsection (3) are attached to the realty transfer certificate.

30 (5) Any amount required to be paid pursuant to [section 18] and remitted to the department pursuant to

1 this section is considered a payment on the account of the transferor for the purposes of individual income tax
2 under Title 15, chapter 30, or for the purposes of the corporation license tax or corporation income tax under Title
3 15, chapter 31. If the transferor is a pass-through entity, the payment is considered a payment on the account
4 of the pass-through entity's shareholders, partners, or members, as applicable.

5
6 **NEW SECTION. Section 21. Rules.** The department shall adopt rules to implement and administer
7 [sections 16 through 21].

8
9 **NEW SECTION. Section 22. Reimbursement for class eight exemption -- distribution.** (1) For the
10 exemption amount in 15-6-138, effective January 1, 2008, the department shall, by June 1, 2008, for calendar
11 year 2008 estimate for each local government, as defined in 15-1-121(4), and each tax increment financing
12 district the difference between property tax collections under 15-6-138 and the property tax revenue that would
13 have been collected under 15-6-138. The difference is the reimbursable amount for each local government and
14 tax increment financing district.

15 (2) (a) The department shall distribute the reimbursement to local governments with the entitlement
16 distributions for fiscal year 2009 to local governments under 15-1-121(6). Local government reimbursements for
17 subsequent years are made pursuant to the entitlement share recomputation as provided in 15-1-121(6).

18 (b) For fiscal year 2008, the department shall determine from the amount calculated under subsection
19 (1) the amount that is attributable to personal property taxes that are not a lien on real property for each local
20 government. By June 15, 2008, the department shall distribute the amount determined under this subsection
21 (2)(b) for local governments as provided in 15-1-121(5)(a).

22 (c) The market value of class eight property exempted under 15-6-138 must be subtracted from the fiscal
23 year 2008 total market value of class eight property when the department computes the value of newly taxable
24 property for fiscal year 2009 under 15-10-420.

25 (3) (a) For each fiscal year beginning after June 30, 2008, the amount determined under subsection (1)
26 for each tax increment financing district must be added to the entitlement share amount for the tax increment
27 financing district as provided in 15-1-121(7)(b) if the tax increment financing district is still in existence. If a tax
28 increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(7),
29 the reimbursement must be made to that tax increment financing district at the same time as other districts.

30 (b) For fiscal year 2008, the department shall determine from the amount calculated under subsection

1 (1) the amount that is attributable to personal property taxes that are not a lien on real property for each tax
2 increment financing district. By June 15, 2008, the department shall distribute the amount determined under this
3 subsection (3)(b) to each tax increment financing district as provided in 15-1-121(7)(b) and to any other tax
4 increment financing district that is entitled to a reimbursement under this section.

5

6 **NEW SECTION. Section 23. Refundable income tax credit -- statewide equalization property tax**
7 **levies on principal residence -- rules.** (1) (a) There is a credit against the tax imposed by this chapter, which
8 is calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal
9 residence under 20-9-331, 20-9-333, and 20-9-360 on \$20,000 of market value on the residence times the relief
10 multiple.

11 (b) (i) As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief
12 allowed under this section. The relief multiple is 0. Each interim, the revenue and transportation interim committee
13 shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine
14 if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change
15 the relief multiple.

16 (ii) The department of administration shall certify to the budget director on August 1, 2007, the amount
17 of unaudited general fund revenue received in fiscal year 2007 as recorded when the fiscal year 2007 statewide
18 accounting, budgeting, and human resources system records are closed in July 2007. Fiscal year 2007 is the
19 period from July 1, 2006, to June 30, 2007. General fund revenue is as recorded in the statewide accounting,
20 budgeting, and human resources system using generally accepted accounting principles in accordance with
21 17-1-102(2). If the unaudited general fund revenue received in fiscal year 2007 exceeds \$1,802,000,000, for each
22 \$1,000,000 greater than \$1,802,000,000, the factor in subsection (1)(b)(i) shall increase by 0.1 for tax year 2007
23 only.

24 (2) As used in this section, "principal residence" means a class four residential dwelling that is a
25 single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as
26 much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling and
27 that is occupied by the owner for at least 7 months during the tax year.

28 (3) Only one claim may be made with respect to any property.

29 (4) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess
30 must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under

1 this chapter.

2 (5) The department may adopt rules to implement and administer this section.

3

4 **Section 24.** Section 7-4-2623, MCA, is amended to read:

5 **"7-4-2623. Liability of clerk relating to duties as recorder.** A county clerk is liable to the party
6 aggrieved for three times the amount of the damages that may result and is punishable as provided in this code
7 if the county clerk to whom an instrument is delivered for record:

8 (1) neglects or refuses to record the instrument within reasonable time after receipt except when the
9 information required by law to record the instrument is not provided;

10 (2) falsely records an instrument or records an instrument in any other manner than as directed in this
11 part;

12 (3) neglects or refuses to keep in the clerk's office indexes that are required by this part or to make the
13 proper entries in the indexes; or

14 (4) alters, changes, or obliterates any records deposited in the clerk's office or inserts any new matter
15 in the records."

16

17 **Section 25.** Section 15-1-121, MCA, is amended to read:

18 **"15-1-121. Entitlement share payment -- appropriation.** (1) As described in 15-1-120(3), each local
19 government is entitled to an annual amount that is the replacement for revenue received by local governments
20 for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter
21 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, was
22 consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the
23 state treasury with each local government's share. The reimbursement under this section is provided by direct
24 payment from the state treasury rather than the ad hoc system that offset certain state payments with local
25 government collections due the state and reimbursements made by percentage splits, with a local government
26 remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other
27 local governments. The amount calculated pursuant to this subsection, as adjusted pursuant to subsection
28 (3)(a)(i), is each local government's base entitlement share. The department shall estimate the total amount of
29 revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

30 ———(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter

- 1 584, Laws of 1999;
- 2 ~~—— (b) vehicle, boat, and aircraft taxes and fees pursuant to:~~
- 3 ~~—— (i) Title 23, chapter 2, part 5;~~
- 4 ~~—— (ii) Title 23, chapter 2, part 6;~~
- 5 ~~—— (iii) Title 23, chapter 2, part 8;~~
- 6 ~~—— (iv) 61-3-317;~~
- 7 ~~—— (v) 61-3-321;~~
- 8 ~~—— (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment~~
- 9 ~~of 61-3-509 in 2001;~~
- 10 ~~—— (vii) Title 61, chapter 3, part 7;~~
- 11 ~~—— (viii) 5% of the fees collected under 61-10-122;~~
- 12 ~~—— (ix) 61-10-130;~~
- 13 ~~—— (x) 61-10-148; and~~
- 14 ~~—— (xi) 67-3-205;~~
- 15 ~~—— (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);~~
- 16 ~~—— (d) district court fees pursuant to:~~
- 17 ~~—— (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);~~
- 18 ~~—— (ii) 25-1-202;~~
- 19 ~~—— (iii) 25-1-1103;~~
- 20 ~~—— (iv) 25-9-506; and~~
- 21 ~~—— (v) 27-9-103;~~
- 22 ~~—— (e) certificate of title fees for manufactured homes pursuant to 15-1-116;~~
- 23 ~~—— (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;~~
- 24 ~~—— (g) all beer, liquor, and wine taxes pursuant to:~~
- 25 ~~—— (i) 16-1-404;~~
- 26 ~~—— (ii) 16-1-406; and~~
- 27 ~~—— (iii) 16-1-411;~~
- 28 ~~—— (h) late filing fees pursuant to 61-3-220;~~
- 29 ~~—— (i) title and registration fees pursuant to 61-3-203;~~
- 30 ~~—— (j) veterans' cemetery license plate fees pursuant to 61-3-459;~~

1 ~~_____ (k) county personalized license plate fees pursuant to 61-3-406;~~
 2 ~~_____ (l) special mobile equipment fees pursuant to 61-3-431;~~
 3 ~~_____ (m) single movement permit fees pursuant to 61-4-310;~~
 4 ~~_____ (n) state aeronautics fees pursuant to 67-3-101; and~~
 5 ~~_____ (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,~~
 6 ~~chapter 1, part 5.~~

7 ~~_____ (2) (a) From the amounts estimated in subsection (1) for each county government, the department shall~~
 8 ~~deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court~~
 9 ~~expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by~~
 10 ~~the state in fiscal year 2002.~~

11 ~~(b)(2) The total amount estimated pursuant to subsections (1) and (2)(a) received in fiscal year 2007 as~~
 12 ~~an entitlement share payment under this section is the base component for the fiscal year 2008 distribution, and~~
 13 ~~in each subsequent year the prior year entitlement share payment, including any reimbursement payments~~
 14 ~~received pursuant to subsection (6), is each local government's base year component. The sum of all local~~
 15 ~~governments' base year components is the base fiscal year entitlement share pool. For the purpose of calculating~~
 16 ~~the sum of all local governments' base year components, the base year component for a local government may~~
 17 ~~not be less than zero.~~

18 (3) (a) The ~~base~~ fiscal year entitlement share pool must be increased annually by a growth rate as
 19 provided for in this subsection (3). The amount determined through the application of annual growth rates is the
 20 entitlement share pool for each fiscal year. By October 1 of each even-numbered year, the department shall
 21 calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

22 (i) ~~Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share~~
 23 ~~payments, the department shall subtract from the fiscal year 2006 entitlement share payments the following~~
 24 ~~amounts:~~

25	Beaverhead	_____	\$6,972
26	Big Horn	_____	\$52,551
27	Blaine	_____	\$13,625
28	Broadwater	_____	\$2,564
29	Carbon	_____	\$11,537
30	Carter	_____	\$407

1	Cascade	\$157,151
2	Chouteau	\$3,536
3	Custer	\$7,011
4	Daniels	\$143
5	Dawson	\$3,893
6	Fallon	\$1,803
7	Fergus	\$9,324
8	Flathead	\$33,655
9	Gallatin	\$222,029
10	Garfield	\$91
11	Glacier	\$3,035
12	Golden Valley	\$2,282
13	Granite	\$4,554
14	Hill	\$31,740
15	Jefferson	\$5,700
16	Judith Basin	\$1,487
17	Lake	\$38,314
18	Lewis and Clark	\$247,886
19	Liberty	\$152
20	Lincoln	\$3,759
21	Madison	\$8,805
22	McCone	\$1,651
23	Meagher	\$2,722
24	Mineral	\$2,361
25	Missoula	\$172,600
26	Musselshell	\$23,275
27	Park	\$6,582
28	Petroleum	\$36
29	Phillips	\$653
30	Pondera	\$10,270

1	Powder River	\$848
2	Powell	\$5,146
3	Prairie	\$717
4	Ravalli	\$93,090
5	Richland	\$3,833
6	Roosevelt	\$9,526
7	Rosebud	\$19,971
8	Sanders	\$30,712
9	Sheridan	\$271
10	Stillwater	\$12,117
11	Sweet Grass	\$2,463
12	Teton	\$5,560
13	Toole	\$7,113
14	Treasure	\$54
15	Valley	\$6,899
16	Wheatland	\$918
17	Wibaux	\$72
18	Yellowstone	\$266,644
19	Anaconda-Deer Lodge	\$20,707
20	Butte-Silver Bow	\$53,057
21	Alberton	\$675
22	Bainville	\$258
23	Baker	\$2,828
24	Bearcreek	\$143
25	Belgrade	\$11,704
26	Belt	\$1,056
27	Big Sandy	\$1,130
28	Big Timber	\$2,910
29	Billings	\$163,499
30	Boulder	\$2,340

1	Bozeman	\$52,805
2	Bridger	\$1,303
3	Broadus	\$766
4	Broadview	\$258
5	Brockton	\$414
6	Browning	\$1,830
7	Cascade	\$1,374
8	Chester	\$1,430
9	Chinook	\$2,275
10	Choteau	\$3,050
11	Circle	\$1,018
12	Glyde Park	\$572
13	Colstrip	\$4,090
14	Columbia Falls	\$6,805
15	Columbus	\$3,245
16	Conrad	\$4,562
17	Culbertson	\$1,216
18	Cut Bank	\$5,316
19	Darby	\$1,348
20	Deer Lodge	\$5,708
21	Denton	\$503
22	Dillon	\$6,928
23	Dodson	\$194
24	Drummond	\$561
25	Dutton	\$661
26	East Helena	\$2,888
27	Ekalaka	\$689
28	Ennis	\$1,518
29	Eureka	\$1,733
30	Fairfield	\$1,120

1	Fairview	\$1,152
2	Flaxville	\$143
3	Forsyth	\$3,286
4	Fort Benton	\$2,579
5	Fort Peck	\$393
6	Froid	\$328
7	Fromberg	\$855
8	Geraldine	\$457
9	Glasgow	\$5,361
10	Glendive	\$8,099
11	Grass Range	\$254
12	Great Falls	\$96,422
13	Hamilton	\$7,148
14	Hardin	\$5,920
15	Harlem	\$1,422
16	Harlowton	\$1,678
17	Havre	\$16,223
18	Helena	\$45,877
19	Hingham	\$263
20	Hobson	\$397
21	Hot Springs	\$912
22	Hysham	\$482
23	Ismay	\$43
24	Joliet	\$1,006
25	Jordan	\$606
26	Judith Gap	\$263
27	Kalispell	\$28,144
28	Kevin	\$304
29	Laurel	\$10,804
30	Lavina	\$361

1	Lewistown	\$10,170
2	Libby	\$4,475
3	Lima	\$397
4	Livingston	\$12,145
5	Lodge Grass	\$889
6	Malta	\$3,389
7	Manhattan	\$2,485
8	Medicine Lake	\$410
9	Meistone	\$234
10	Miles City	\$14,152
11	Missoula	\$104,264
12	Moore	\$319
13	Nashua	\$536
14	Neihart	\$149
15	Opheim	\$180
16	Outlook	\$125
17	Philipsburg	\$1,612
18	Pinesdale	\$1,413
19	Plains	\$2,007
20	Plentywood	\$3,185
21	Plevna	\$225
22	Polson	\$7,722
23	Poplar	\$1,544
24	Red Lodge	\$3,903
25	Rexford	\$263
26	Richey	\$309
27	Ronan	\$3,262
28	Roundup	\$3,280
29	Ryegate	\$465
30	Saco	\$354

1	Scobey	\$1,798
2	Shelby	\$5,677
3	Sheridan	\$1,150
4	Sidney	\$7,747
5	Stanford	\$737
6	Stevensville	\$3,063
7	St. Ignatius	\$1,367
8	Sunburst	\$709
9	Superior	\$1,521
10	Terry	\$1,011
11	Thompson Falls	\$2,272
12	Three Forks	\$3,130
13	Townsend	\$3,286
14	Troy	\$1,654
15	Twin Bridges	\$695
16	Valier	\$817
17	Virginia City	\$223
18	Walkerville	\$1,183
19	West Yellowstone	\$2,083
20	Westby	\$263
21	White Sulphur Springs	\$1,734
22	Whitefish	\$9,932
23	Whitehall	\$1,889
24	Wibaux	\$893
25	Winifred	\$259
26	Winnett	\$314
27	Wolf Point	\$4,497

28 (ii)(i) The department shall calculate the average annual growth rate of the Montana gross state product,
 29 as published by the bureau of economic analysis of the United States department of commerce, for the following
 30 periods:

1 (A) the last 4 calendar years for which the information has been published; and

2 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
3 subsection ~~(3)(a)(iii)(A)~~ (3)(a)(i)(A).

4 ~~(iii)(ii)~~ The department shall calculate the average annual growth rate of Montana personal income, as
5 published by the bureau of economic analysis of the United States department of commerce, for the following
6 periods:

7 (A) the last 4 calendar years for which the information has been published; and

8 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
9 subsection ~~(3)(a)(iii)(A)~~ (3)(a)(ii)(A).

10 (b) ~~(i)~~ The entitlement share pool growth rate for the first each year of the biennium must be the following
11 percentage of the average of the growth rates calculated in subsections ~~(3)(a)(iii)(B)~~ (3)(a)(i)(B) and ~~(3)(a)(iii)(B)~~
12 (3)(a)(ii)(B):

13 ~~(A)(i)~~ for counties, 54%;

14 ~~(B)(ii)~~ for consolidated local governments, 62%; and

15 ~~(C)(iii)~~ for incorporated cities and towns, 70%.

16 ~~(ii) The entitlement share pool growth rate for the second year of the biennium must be the following~~
17 ~~percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):~~

18 ~~—— (A) for counties, 54%;~~

19 ~~—— (B) for consolidated local governments, 62%; and~~

20 ~~—— (C) for incorporated cities and towns, 70%.~~

21 (4) As used in this section, "local government" means a county, a consolidated local government, an
22 incorporated city, and an incorporated town. A local government does not include a tax increment financing
23 district provided for in subsection ~~(6)~~ (7). ~~For purposes of calculating the base year component for a county or~~
24 ~~consolidated local government, the department shall include the revenue listed in subsection (1) for all special~~
25 ~~districts within the county or consolidated local government. The county or consolidated local government is~~
26 responsible for making an allocation from the county's or consolidated local government's share of the entitlement
27 share pool to each special district within the county or consolidated local government in a manner that reasonably
28 reflects each special district's loss of revenue sources ~~listed in subsection (1)~~ for which reimbursement is provided
29 in this section.

30 (5) (a) The entitlement share pools calculated in this section, the amounts determined under [section

1 ~~22(2)(b)] for local governments, and the block grants funding provided for in subsection (6) (7), including the~~
2 ~~amounts determined under [section 22(3)(b)], are statutorily appropriated, as provided in 17-7-502, from the~~
3 ~~general fund to the department for distribution to local governments. Each local government is entitled to a pro~~
4 ~~rata share of each year's entitlement share pool based on the local government's base component in relation to~~
5 ~~the base year entitlement share pool. The~~ Except for the distribution made under [section 22(2)(b)], the
6 distributions must be made on a quarterly basis.

7 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
8 and the entitlement share pool in the previous fiscal year. ~~For the purposes of subsection (5)(b)(ii)(A), a county~~
9 ~~with a negative base year component has a base year component of zero.~~ The growth factor in the entitlement
10 share must be calculated separately for:

- 11 (A) counties;
12 (B) consolidated local governments; and
13 (C) incorporated cities and towns.

14 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

15 (A) 50% of the growth amount must be allocated based upon each county's percentage of the base prior
16 fiscal year entitlement share pool for all counties; and

17 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
18 population bears to the state population not residing within consolidated local governments as determined by the
19 latest interim year population estimates from the Montana department of commerce as supplied by the United
20 States bureau of the census.

21 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
22 follows:

23 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
24 percentage of the base prior fiscal year entitlement share pool for all consolidated local governments; and

25 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
26 government's population bears to the state's total population residing within consolidated local governments as
27 determined by the latest interim year population estimates from the Montana department of commerce as
28 supplied by the United States bureau of the census.

29 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

30 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's

1 percentage of the ~~base~~ prior fiscal year entitlement share pool for all incorporated cities and towns; and
 2 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
 3 population bears to the state's total population residing within incorporated cities and towns as determined by the
 4 latest interim year population estimates from the Montana department of commerce as supplied by the United
 5 States bureau of the census.

6 (v) In each fiscal year, the amount of the entitlement share pool ~~not represented by~~ before the growth
 7 amount or adjustments are made under subsection (6) are applied is to be distributed to each local government
 8 in the same manner as the entitlement share pool was distributed in the prior fiscal year.

9 (6) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
 10 the department shall determine the reimbursement amount as provided in the enactment and add the appropriate
 11 amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal
 12 year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool.
 13 The ratio of each local government's distribution from the entitlement share pool must be recomputed to
 14 determine each local government's ratio to be used in the subsequent year's distribution determination under
 15 subsections (5)(b)(ii)(A), (5)(b)(iii)(A), and (5)(b)(iv)(A).

16 ~~(6)(7)~~ (a) If a tax increment financing district was not in existence during the fiscal year ending June 30,
 17 2000, then the tax increment financing district is not entitled to any ~~block grant~~ funding. If a tax increment
 18 financing district referred to in subsection ~~(6)(b)~~ (7)(b) terminates, then the ~~block grant~~ funding for the district
 19 provided for in subsection ~~(6)(b)~~ (7)(b) terminates.

20 (b) ~~One-half~~ Except for the reimbursement made under [section 22(3)(b)], one-half of the payments
 21 provided for in this subsection ~~(6)(b)~~ (7)(b) must be made by November 30 and the other half by May 31 of each
 22 year. Subject to subsection ~~(6)(a)~~ (7)(a), the entitlement share for tax increment financing districts is as follows:

23	Cascade	Great Falls - downtown	\$468,966
24	Deer Lodge	TIF District 1	3,148
25	Deer Lodge	TIF District 2	3,126
26	Flathead	Kalispell - District 1	758,359
27	Flathead	Kalispell - District 2	5,153
28	Flathead	Kalispell - District 3	41,368
29	Flathead	Whitefish District	164,660
30	Gallatin	Bozeman - downtown	34,620

1	Lewis and Clark	Helena - #2	731,614
2	Missoula	Missoula - 1-1B & 1-1C	1,100,507 <u>250,279</u>
3	Missoula	Missoula - 4-1C	33,343
4	Silver Bow	Butte - uptown	283,801
5	Yellowstone	Billings	436,815

6 ~~(7)~~(8) The estimated ~~base~~ fiscal year entitlement share pool and any subsequent entitlement share pool
 7 for local governments do not include revenue received from tax increment financing districts, from countywide
 8 transportation block grants, or from countywide retirement block grants.

9 ~~(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(o) is significantly~~
 10 ~~reduced, except through legislative action, the department shall deduct the amount of revenue loss from the~~
 11 ~~entitlement share pool beginning in the succeeding fiscal year and the department shall work with local~~
 12 ~~governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of~~
 13 ~~revenue.~~

14 ~~_____ (b) For the purposes of subsection (8)(a), a significant reduction is a loss that causes the amount of~~
 15 ~~revenue received in the current year to be less than 95% of the amount of revenue received in the base year.~~

16 (9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated
 17 pursuant to subsections (1) through (3).

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

22 (11) A local government may appeal the department's estimation of the base ~~year~~ component, the
 23 entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according
 24 to the uniform dispute review procedure in 15-1-211.

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

27
 28 **Section 26.** Section 15-1-201, MCA, is amended to read:

29 **"15-1-201. Administration of revenue laws.** (1) (a) The department has general supervision over the
 30 administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any

1 officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to
2 the end that all assessments of property are made relatively just and equal, at true value, and in substantial
3 compliance with law. The department may make rules to supervise the administration of all revenue laws of the
4 state and assist in their enforcement.

5 (b) In the administration of any tax over which it has general supervision, the department may require
6 all individuals subject to the tax laws of the state to provide to the department the individual's social security
7 number, federal employee identification number, or taxpayer identification number.

8 ~~(b)~~(c) The department may contract with the U.S. department of the interior or any other federal agency
9 to perform federal royalty audits, collection services, and any other delegable functions related to mining
10 operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and
11 Fairness Act of 1996.

12 ~~(c)~~(d) The department shall adopt rules specifying which types of property within the several classes are
13 considered comparable property as defined in 15-1-101.

14 ~~(d)~~(e) The department shall also adopt rules for determining the value-weighted mean sales assessment
15 ratio for all commercial and industrial real property and improvements.

16 (2) The department shall confer with, advise, and direct officers of municipal corporations concerning
17 their duties, with respect to taxation, under the laws of the state.

18 (3) The department ~~shall~~ may collect annually from the proper officers of the municipal corporations
19 information, in a form prescribed by the department, about the assessment of property, collection of taxes,
20 receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as
21 may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly
22 and return promptly to the department all forms and to aid the department in its work. The department ~~shall~~ may
23 examine the records of all municipal corporations for purposes considered necessary or helpful.

24 (4) (a) Unless otherwise provided by law and except as provided in subsection (4)(b), upon written
25 request of the department, state agencies shall provide to the department relevant taxpayer information in their
26 possession.

27 (b) Unless otherwise provided by law, confidential criminal justice information, as defined in 44-5-103,
28 in the possession of a state agency that may be evidence of fraud pursuant to 15-1-216 must be provided to the
29 appropriate department personnel.

30 (5) Unless otherwise provided by law, the department may exchange updated taxpayer name and

1 address information with other state agencies."

2

3 **Section 27.** Section 15-1-706, MCA, is amended to read:

4 **"15-1-706. Execution upon warrant.** (1) Upon receipt of a copy of the filed warrant and notice from the
5 department that the applicable hearing provisions have been complied with, the sheriff or agent authorized to
6 collect the tax shall proceed to execute upon the warrant in the same manner as prescribed for execution upon
7 a judgment. The sheriff is entitled to fees or compensation as provided by law incurred in executing upon the
8 judgment. The amount of the fees or compensation must be added to the amount of the warrant.

9 (2) A notice of levy may be made by electronic means ~~of a~~ or by certified letter by an agent authorized
10 to collect the tax. An agent is not entitled to any fee or compensation in excess of actual expenses incurred in
11 enforcing the warrant.

12 (3) When issued, a notice of levy has the same force and effect as a writ of execution. A levy upon
13 earnings continues in effect for 120 days or until the judgment is satisfied, whichever occurs first. The levy applies
14 ~~to all pay periods beginning during the 120-day period~~ earnings due on or after the date of service of the notice
15 of levy through the expiration of the levy.

16 (4) A sheriff or agent shall return a warrant, along with any funds collected, within ~~90~~ 120 days of the date
17 of the warrant.

18 (5) If the warrant is returned not satisfied in full, the department has the same remedies to collect the
19 deficiency as are available for any civil judgment."
20

21 **Section 28.** Section 15-6-135, MCA, is amended to read:

22 **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property includes:

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

26 (b) air and water pollution control equipment as defined in this section;

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

28 (d) any personal or real property used primarily in the production of gasohol during construction and for
29 the first 3 years of its operation;

30 (e) all land and improvements and all personal property owned by a research and development firm,

1 provided that the property is actively devoted to research and development;

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

3 (g) all property used and owned by persons, firms, corporations, or other organizations that are engaged
4 in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities
5 and towns of ~~4,200~~ 10,000 permanent residents or less.

6 (2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,
7 machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing,
8 abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the
9 creation of air or water pollutants that, except for the use of the item, would be released to the environment.
10 Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices,
11 or equipment is not eligible for certification under this section.

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

15 (c) The department of environmental quality shall promulgate rules specifying procedures, including
16 timeframes for certification application, and definitions necessary to identify air and water pollution control
17 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the
18 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall
19 identify and track compliance in the use of certified air and water pollution control equipment and report
20 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated
21 incidents of noncompliance at a facility do not affect certification.

22 (d) A person may appeal the certification, classification, and valuation of the property to the state tax
23 appeal board. Appeals on the property certification must name the department of environmental quality as the
24 respondent, and appeals on the classification or valuation of the equipment must name the department of
25 revenue as the respondent.

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

29 (b) New industrial property does not include:

30 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,

- 1 or professions unless the business or profession meets the requirements of subsection (4)(b)(v);
 2 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or
 3 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years
 4 or longer.

5 (4) Fifty percent of the market value of new rural telecommunication property is exempt from taxation
 6 for the tax year the property is placed in service and for the 9 succeeding tax years. As used in this subsection,
 7 "new rural telecommunication property" means property included in subsection (1)(g) that is placed in service
 8 after January 1, 2006.

9 ~~(4)(5)~~ (a) "New industry" means any person, corporation, firm, partnership, association, or other group
 10 that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a
 11 mere expansion, reorganization, or merger of an existing industry.

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

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

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

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

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

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

23 ~~(5)(6)~~ Class five property is taxed at 3% of its market value."
 24

25 **Section 29.** Section 15-6-138, MCA, is amended to read:

26 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
 27 includes:

28 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

29 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
 30 except those included in class five;

1 (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage
2 tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication
3 towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment
4 that is skidable, portable, or movable, tools that are not exempt under 15-6-219, and supplies except those
5 included in class five;

6 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
7 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
8 as provided in 15-6-220, and supplies except those included in class five;

9 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
10 specifically included and taxed in another class;

11 (f) special mobile equipment as defined in 61-1-101;

12 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
13 commercial establishments as defined in this section;

14 (h) x-ray and medical and dental equipment;

15 (i) citizens' band radios and mobile telephones;

16 (j) radio and television broadcasting and transmitting equipment;

17 (k) cable television systems;

18 (l) coal and ore haulers;

19 (m) theater projectors and sound equipment; and

20 (n) all other property that is not included in any other class in this part, except that property that is subject
21 to a fee in lieu of a property tax.

22 (2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000
23 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a
24 mining or quarrying environment.

25 (3) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,
26 wholesale, retail, or food-handling business.

27 (4) Class eight property is taxed at 3% of its market value.

28 (5) (a) The first \$65,000 of market value of class eight property of a person owned by an individual or
29 business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from
30 taxation.

1 **(b) (i) The department shall, by rule, establish reporting requirements that would not allow multiple**
 2 **business identities to be formed to obtain multiple exemption thresholds for what are functionally single**
 3 **businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as**
 4 **defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through**
 5 **the entities.**

6 **(ii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement**
 7 **showing the property of the firm or corporation, another member of the firm or another officer is not required to**
 8 **include the property in that person's statement but the statement must show the name of the person or officer**
 9 **who made the statement in which the property is included.**

10 **(iii) The fact that a statement is not required or that a person has not made a statement, under oath or**
 11 **otherwise, does not relieve the person's property from taxation."**

12

13 **Section 30.** Section 15-6-219, MCA, is amended to read:

14 **"15-6-219. Personal and other property exemptions -- allocation of certain exemptions. (1)** The
 15 following categories of property are exempt from taxation:

16 ~~(1)~~**(a)** harness, saddlery, and other tack equipment;

17 ~~(2)~~**(b)** the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
 18 hand-held and that are used to:

19 ~~(a)~~**(i)** construct, repair, and maintain improvements to real property; or

20 ~~(b)~~**(ii)** repair and maintain machinery, equipment, appliances, or other personal property;

21 ~~(3)~~**(c)** all household goods and furniture, including but not limited to clocks, musical instruments, sewing
 22 machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes
 23 or for furnishing or equipping the family residence;

24 ~~(4)~~**(d)** a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;

25 ~~(5)~~**(e)** items of personal property intended for rent or lease in the ordinary course of business if each item
 26 of personal property satisfies all of the following:

27 ~~(a)~~**(i)** the acquired cost of the personal property is less than \$15,000;

28 ~~(b)~~**(ii)** the personal property is owned by a business whose primary business income is from rental or
 29 lease of personal property to individuals and no one customer of the business accounts for more than 10% of the
 30 total rentals or leases during a calendar year; and

- 1 ~~(e)~~(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- 2 (f) the specified amount or less of market value of class eight property exempt under 15-6-138(5) not
- 3 otherwise exempt from property taxation owned by an individual or business entity that is identified by a unique
- 4 taxpayer identification number;
- 5 (g) items of personal property with a market value of less than \$100;
- 6 ~~(6)~~(h) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,
- 7 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and
- 8 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that
- 9 are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- 10 and
- 11 ~~(7)~~(i) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
- 12 33-25-105.
- 13 (2) (a) For determining the amount of a taxpayer's class eight property that is subject to taxation, the
- 14 department shall allocate the market value of class eight business equipment that is exempt from taxation under
- 15 subsection (1)(f) as provided in this subsection (2).
- 16 (b) If the class eight business equipment of the taxpayer is used in a single location, the market value
- 17 of the exempt property is allocated to that location.
- 18 (c) If the class eight business equipment of the taxpayer is used in more than one location, the market
- 19 value of the exempt property must be allocated to each location in the ratio that the total market value of class
- 20 eight property at that location bears to the total market value of class eight property of the taxpayer at all
- 21 locations.
- 22 (d) The allocations determined under subsections (2)(b) and (2)(c) must be converted to taxable value
- 23 using the tax rate under 15-6-138 and must be reported to counties for the purpose of determining county
- 24 classification under 7-1-2111."

25

26 **Section 31.** Section 15-8-301, MCA, is amended to read:

27 "**15-8-301. Statement -- what to contain.** (1) The department may require from a person a statement

28 under oath setting forth specifically all the real and personal property owned by, in possession of, or under the

29 control of the person at midnight on January 1. The statement must be in writing, showing separately:

30 (a) all property belonging to, claimed by, or in the possession or under the control or management of the

1 person;

2 (b) all property belonging to, claimed by, or in the possession or under the control or management of any
3 firm of which the person is a member;

4 (c) all property belonging to, claimed by, or in the possession or under the control or management of any
5 corporation of which the person is president, secretary, cashier, or managing agent;

6 (d) the county in which the property is situated or in which the property is liable to taxation and, if liable
7 to taxation in the county in which the statement is made, also the city, town, school district, road district, or other
8 revenue districts in which the property is situated;

9 (e) an exact description of all lands, improvements, and personal property;

10 (f) all depots, shops, stations, buildings, and other structures erected on the space covered by the
11 right-of-way and all other property owned by any person owning or operating any railroad within the county.

12 (2) The department shall notify the taxpayer in the statement for reporting personal property owned by
13 a business or used in a business that the statement is for reporting business equipment and other business
14 personal property described in Title 15, chapter 6, part 1. ~~A~~ Except as provided in subsection (3), a taxpayer
15 owning exempt business equipment is subject to limited reporting requirements; ~~however.~~ However, all new
16 businesses shall report their class eight property so that the department can determine the market value of the
17 property. The department shall by rule develop reporting requirements for business equipment to limit the annual
18 reporting of exempt business equipment to the extent feasible.

19 (3) In the reporting of exempt business equipment under 15-6-219(1)(f), the department shall, by rule,
20 establish reporting requirements that would prevent the use of multiple business identities to obtain multiple
21 exemptions for what are functionally single businesses. The rules must require a unique taxpayer identification
22 number for an individual and business entity to allow the department to track exemptions of all individuals and
23 business entities. The department shall use the information obtained under this subsection to allocate the market
24 value of exempt business equipment as provided in 15-6-219(2).

25 ~~(3)~~(4) Whenever one member of a firm or one of the proper officers of a corporation has made a
26 statement showing the property of the firm or corporation, another member of the firm or another officer is not
27 required to include the property in that person's statement but the statement must show the name of the person
28 or officer who made the statement in which the property is included.

29 ~~(4)~~(5) The fact that a statement is not required or that a person has not made a statement, under oath
30 or otherwise, does not relieve the person's property from taxation."

1

2 **Section 32.** Section 15-10-420, MCA, is amended to read:

3 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
4 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
5 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
6 years. The maximum number of mills that a governmental entity may impose is established by calculating the
7 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
8 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
9 one-half of the average rate of inflation for the prior 3 years.

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

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

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

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

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

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

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

24 (iv) subdivision of real property; and

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

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

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

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

- 1 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
2 (iii) the termination of a tax increment financing district.
- 3 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
4 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
5 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
6 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- 7 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
8 property that results in the property being taxable as class four property or as nonqualified agricultural land as
9 described in 15-6-133(1)(c).
- 10 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 11 (a) school district levies established in Title 20; or
12 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
13 excluded under 2-9-212 or 2-18-703.
- 14 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
15 under 15-6-131 and 15-6-132.
- 16 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:
- 17 (a) may increase the number of mills to account for a decrease in reimbursements;
18 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
19 that is reimbursed under the provisions of 15-1-121(6).
- 20 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
21 of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated
22 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
23 established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the
24 calculation must be rounded up to the nearest whole mill.
- 25 (9) (a) The provisions of subsection (1) do not prevent or restrict:
- 26 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
27 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
28 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.
- 29 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
30 actually assessed in a subsequent year.

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

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

8

9 **Section 33.** Section 15-23-101, MCA, is amended to read:

10 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

11 (1) the railroad transportation property of railroads and railroad car companies operating in more than
12 one county in the state or more than one state;

13 (2) property owned by a corporation or other person operating a single and continuous property operated
14 in more than one county or more than one state, including but not limited to telegraph, telephone (including
15 commercial mobile radio service as defined in 47 CFR 20.3), microwave, and electric power or transmission lines;
16 natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation
17 that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical
18 energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute
19 electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

20 (3) all property of scheduled airlines;

21 (4) the net proceeds of mines, except bentonite mines;

22 (5) the gross proceeds of coal mines; and

23 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,
24 part 12."

25

26 **Section 34.** Section 15-30-301, MCA, is amended to read:

27 **"15-30-301. Information agents' duties.** (1) ~~Every~~ Each information agent shall make a return to the
28 department of complete information concerning the following distributions made for any individual during the
29 ~~taxable tax~~ year upon which ~~no~~ withholding tax has not been deducted:

30 (a) sums in excess of \$10 distributed as dividends, interest as defined in section 6049 of the Internal

1 Revenue Code, 26 U.S.C. 6049, royalties, and payments made under a retirement plan covering an
2 owner-employee as defined in section 401(c)(3) of the Internal Revenue Code, 26 U.S.C. 401(c)(3);

3 (b) all interest income in excess of \$10 from obligations of another state and a county, municipality,
4 district, or other political subdivision of that state;

5 (c) interest, other than that specified in subsections (1)(a) and (1)(b), rents, salaries, wages, prizes,
6 awards, annuities, pensions, and other fixed or determinable gains, profits, and income in excess of \$600, except
7 interest coupons payable to the bearer;

8 (d) proceeds from real estate transactions that are required to be reported under rules or regulations of
9 the United States department of the treasury.

10 (2) The return must be made under ~~the regulations~~ rules adopted by the department and in the form and
11 manner prescribed by the department. For ease of reporting, the form must be as nearly identical to the
12 comparable federal form as possible."

13

14 **Section 35.** Section 15-30-303, MCA, is amended to read:

15 **"15-30-303. Confidentiality of tax records.** (1) Except as provided in subsections (7) and (8) or in
16 accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known
17 in any manner:

18 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
19 return required under this chapter or any other information secured in the administration of this chapter; or

20 (b) any federal return or federal return information disclosed on any return or report required by rule of
21 the department or under this chapter.

22 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
23 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
24 proceeding:

25 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

26 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
27 when the reports or facts shown by the reports are directly involved in the action or proceedings.

28 (b) The court may require the production of and may admit in evidence only as much of the reports or
29 of the facts shown by the reports as are pertinent to the action or proceedings.

30 (3) This section does not prohibit:

1 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
2 or report filed in connection with the taxpayer's tax;

3 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
4 the items of particular reports or returns; or

5 (c) the inspection by the attorney general or other legal representative of the state of the report or return
6 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
7 an action or proceeding has been instituted in accordance with the provisions of 15-30-311; or

8 (d) the delivery to the secretary of state, pursuant to 15-31-603, of the name, address, and business
9 activity code of any corporation, business trust, limited partnership, limited liability company, or limited liability
10 partnership that filed a tax return or report required by this chapter.

11 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the
12 department orders them to be destroyed.

13 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by
14 imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee
15 of the state, the offender must be dismissed from office and may not hold any public office in this state for a period
16 of 1 year after dismissal.

17 (6) This section may not be construed to prohibit the department from providing taxpayer return
18 information and information from employers' payroll withholding reports to:

19 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
20 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

21 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
22 and abuse under the workers' compensation program.

23 (7) The department may permit the commissioner of internal revenue of the United States or the proper
24 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer
25 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an
26 abstract of the return of income of any individual or supply the officer with information concerning an item of
27 income contained in a return or disclosed by the report of an investigation of the income or return of income of
28 an individual, but the permission may be granted or information furnished only if the statutes of the United States
29 or of the other state grant substantially similar privileges to the proper officer of this state charged with the
30 administration of this chapter.

1 (8) The department shall furnish:

2 (a) to the department of justice;

3 (i) all information necessary to identify those persons qualifying for the additional exemption for blindness
4 pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of
5 61-5-105;

6 (ii) all information necessary for the investigation and prevention of medicaid fraud, for the purposes of
7 enabling the department of justice to administer 53-2-501; and

8 (iii) all information necessary for investigation and prevention of crimes and fraud, for the purposes of
9 enabling the department of justice to administer 44-2-115;

10 (b) to the department of public health and human services information acquired under 15-30-301,
11 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
12 assistance fraud and abuse, provided notice to the applicant has been given;

13 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
14 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
15 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
16 industry is an employee, an independent contractor, or self-employed;

17 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
18 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
19 fishing licenses;

20 (e) to the board of regents information required under 20-26-1111;

21 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
22 information as provided in 5-12-303. The information provided to the office of budget and program planning must
23 be the same as the information provided to the legislative fiscal analyst.

24 (g) to the department of transportation farm income information based on the most recent income tax
25 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
26 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
27 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

28 (h) to the commissioner of insurance's office all information necessary for the administration of the small
29 business health insurance tax credit provided for in Title 33, chapter 22, part 20;

30 (i) to the commissioner of insurance's office information necessary for the administration of Title 33;

1 (j) to the office of securities commissioner information necessary for the administration of Title 30,
 2 chapter 10."

3

4 **Section 36.** Section 15-31-509, MCA, is amended to read:

5 **"15-31-509. Periods of limitation.** (1) Except as otherwise provided in 15-31-544 and this section, a
 6 deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice
 7 of additional tax proposed to be assessed is mailed within 3 5 years from the date that the return was filed. For
 8 the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
 9 day. When, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in
 10 writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period
 11 agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax may not
 12 apply when:

13 (a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of
 14 federal tax if the suspension of the limitation set forth in this section lasts:

15 (i) only as long as the suspension of the federal statute of limitation; or

16 (ii) until 1 year after the federal changes have become final or an amended federal return is filed as a
 17 result of the suspension of the federal statute, whichever is the latest in time; or

18 (b) a taxpayer has failed to file an amended Montana return, as required by 15-31-506, until 3 5 years
 19 after the federal changes become final or the amended federal return was filed, whichever the case may be.

20 (2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after
 21 3 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
 22 whichever period expires the later, unless before the expiration of the period the taxpayer files a claim for the
 23 refund or credit or the department has determined the existence of the overpayment and has approved the refund
 24 or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within
 25 which the department may propose an additional assessment, the period within which a claim for refund or credit
 26 may be filed or a credit or refund allowed in the event a claim is not filed must automatically be extended.

27 (3) If a claim for refund or credit is based upon an overpayment attributable to a net loss carryback
 28 adjustment as provided in 15-31-119, ~~in lieu of the 3-year period provided for in subsection (1), the period must~~
 29 ~~be the period that ends with the expiration of the 15th day of the 41st month following the end of the tax year of~~
 30 ~~the net loss that results in the carryback~~ the overpayment may be refunded or credited within the period that

1 expires on the 15th day of the 41st month following the close of the tax year of the net operating loss if that period
2 expires later than 5 years from the due date of the return for the year to which the net operating loss is carried
3 back.

4 (4) If the year of the net operating loss is open under either state or federal waivers, the year to which
5 the loss is carried back will remain open for the purposes of the loss carryback and for 12 months following the
6 expiration of the state or federal waiver, even though the claim would otherwise be barred under this section."

7

8 **Section 37.** Section 15-31-511, MCA, is amended to read:

9 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section in accordance with
10 a proper judicial order or as otherwise provided by law, it is unlawful to knowingly divulge or make known in any
11 manner:

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

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

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

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

20 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of
21 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

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

25 (3) This section does not prohibit:

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

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

30 (c) the inspection of returns and reports by the attorney general or other legal representative of the state

1 in the course of an administrative proceeding or litigation under this chapter;

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

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

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

12 (g) the delivery to the secretary of state, pursuant to 15-31-603, of the name, address, and business
13 activity code of any corporation, business trust, limited partnership, limited liability company, or limited liability
14 partnership that filed a tax return or report required by this chapter.

15 (4) The department shall on request:

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

19 (b) deliver corporation income tax data to the legislative fiscal analyst and the office of budget and
20 program planning, but the information furnished to the legislative fiscal analyst and the office of budget and
21 program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection
22 (1);

23 (c) provide to the commissioner of insurance's office information necessary for the administration of Title
24 33; and

25 (d) provide to the office of securities commissioner information necessary for the administration of Title
26 30, chapter 10.

27 (5) A person convicted of violating this section shall be fined not to exceed \$1,000 or be imprisoned in
28 the county jail for a term not to exceed 1 year, or both. If a public servant, as defined in 45-2-101, is convicted
29 of violating this section, the person forfeits office and may not hold any public office or public employment in the
30 state for a period of 1 year after conviction."

1

2 **Section 38.** Section 15-31-603, MCA, is amended to read:

3 **"15-31-603. List of entities furnished by and to secretary of state.** (1) On or before the 15th day of
4 each month, the secretary of state shall provide a list of all new corporations, business trusts, limited partnerships,
5 limited liability companies, and limited liability partnerships, foreign and domestic, subject to the terms of Title 35,
6 chapters 1, 4, 5, 8 through 10, and 12, to the department ~~of revenue~~. The list must include the following
7 information:

8 ~~(1)~~(a) the name of the entity;

9 ~~(2)~~(b) the principal office of the entity;

10 ~~(3)~~(c) the name and address of the registered agent of the entity in Montana, if applicable; ~~and~~

11 (d) the last four digits of the federal tax identification number of the entity, if applicable; and

12 ~~(4)~~(e) other information that the director of the department ~~of revenue~~ may require.

13 (2) On or before December 15 of each year, the department shall furnish to the secretary of state a list
14 of all corporations, business trusts, limited partnerships, limited liability companies, and limited liability
15 partnerships that have filed a tax return or report required by chapter 30 or 31. The list must include the following
16 information:

17 (a) the name of the entity;

18 (b) the address of the entity; and

19 (c) the business activity code of the entity, if available."

20

21 **Section 39.** Section 16-11-149, MCA, is amended to read:

22 **"16-11-149. Hearings before ~~state tax appeal board~~ department.** A person aggrieved by any action
23 of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation
24 of a license pursuant to 16-11-144, may apply to the ~~state tax appeal board~~ department, in writing, for a hearing
25 ~~or rehearing~~ within 30 days after the action of the department or its authorized agents. ~~The board shall promptly~~
26 ~~consider the application, set the application for hearing, and notify the applicant of the time and place fixed for~~
27 ~~the hearing or rehearing, which may be at its office or in the county of the applicant. After the hearing or~~
28 ~~rehearing, the board may make any further or other order in the premises as it may consider proper and lawful~~
29 ~~and shall furnish a copy to the applicant. The department, on its own initiative, may order a contested case~~
30 ~~hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with the administration of~~

1 ~~this part upon at least 10 days' notice in writing to the person or persons to be investigated~~ The hearing must be
 2 conducted pursuant to the department's uniform dispute review procedure as provided in 15-1-211. A final order
 3 by the department may be appealed to the state tax appeal board."

4

5 **Section 40.** Section 17-7-502, MCA, is amended to read:

6 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 7 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 8 need for a biennial legislative appropriation or budget amendment.

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

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

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

14 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407;
 15 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;
 16 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369;
 17 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;
 18 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;
 19 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306;
 20 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504;
 21 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
 22 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;
 23 87-1-513; 90-1-115; 90-1-205; 90-3-1003; ~~and 90-9-306;~~ and [section 3].

24 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 25 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 26 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 27 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 28 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 29 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 30 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L.

1 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 2 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 3 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion
 4 of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202,
 5 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005,
 6 the inclusion of 15-31-906 terminates January 1, 2010.)"

7

8 **Section 41.** Section 20-9-366, MCA, is amended to read:

9 **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

10 (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school
 11 ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000,
 12 with the quotient divided by the total county elementary ANB count or the total county high school ANB count
 13 used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement
 14 amounts.

15 (2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an
 16 eligible district means the taxable valuation in the previous year of all property in the district divided by the sum
 17 of the district's current year BASE budget amount less direct state aid and the state special education allowable
 18 cost payment.

19 (b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in
 20 the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the
 21 district used to calculate the district's current year total per-ANB entitlement amount.

22 (3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes,
 23 means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and
 24 divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school
 25 ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB
 26 entitlement amounts.

27 (4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base
 28 ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable
 29 valuation in the previous year of all property in the state, multiplied by ~~175%~~ 180% and divided by the total sum
 30 of either the state elementary school districts' or the high school districts' current year BASE budget amounts less

1 total direct state aid.

2 (b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school
3 retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all
4 property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state
5 elementary ANB count or the total state high school ANB amount used to calculate the elementary school
6 districts' and high school districts' current year total per-ANB entitlement amounts."

7

8 **Section 42.** Section 35-1-1104, MCA, is amended to read:

9 **"35-1-1104. Annual report for secretary of state.** (1) Each domestic corporation and each foreign
10 corporation authorized to transact business in this state shall deliver to the secretary of state, for filing, an annual
11 report that sets forth:

12 (a) the name of the corporation and the state or country under whose law it is incorporated;

13 (b) the mailing address and, if different, street address of its registered office and the name of its
14 registered agent at that office in this state;

15 (c) the address of its principal office;

16 (d) the names and business addresses of its directors and principal officers;

17 (e) a brief description of the nature of its business;

18 (f) the total number of authorized shares, itemized by class and series, if any, within each class; ~~and~~

19 (g) the total number of issued and outstanding shares, itemized by class and series, if any, within each
20 class; and

21 (h) the last four digits of the corporation's federal tax identification number.

22 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
23 of the corporation.

24 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
25 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation
26 was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state
27 between January 1 and April 15.

28 (4) If an annual report does not contain the information required by this section, the secretary of state
29 shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for
30 correction. If the report is corrected to contain the information required by this section and delivered to the

1 secretary of state within 30 days after the effective date of notice, it is considered to be timely filed.

2 (5) The tax identification of the corporation may not be disclosed except to the department of revenue
3 pursuant to 15-31-603."

4

5 **Section 43.** Section 35-8-208, MCA, is amended to read:

6 **"35-8-208. Annual report for secretary of state.** (1) A limited liability company or a foreign limited
7 liability company authorized to transact business in this state shall deliver to the secretary of state, for filing, an
8 annual report that sets forth:

9 (a) the name of the limited liability company and the state or country under whose law it is organized;

10 (b) the mailing address and, if different, street address of its registered office and the name of its
11 registered agent at that office in this state;

12 (c) the address of its principal office;

13 (d) (i) if the limited liability company is managed by a manager or managers, a statement that the
14 company is managed in that fashion and the names and street addresses of the managers;

15 (ii) if the management of a limited liability company is reserved to the members, a statement to that
16 effect;

17 (e) if the limited liability company is a professional limited liability company, a statement that all of its
18 members and not less than one-half of its managers are qualified persons with respect to the limited liability
19 company; and

20 (f) the last four digits of the limited liability company's tax identification number.

21 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
22 of the limited liability company.

23 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
24 of the year following the calendar year in which a domestic limited liability company is organized or a foreign
25 limited liability company is authorized to transact business. Subsequent annual reports must be delivered to the
26 secretary of state between January 1 and April 15.

27 (4) If an annual report does not contain the information required by this section, the secretary of state
28 shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to
29 it for correction.

30 (5) The annual report must be executed by at least one member of the limited liability company and must

1 include the street address of the member.

2 (6) A domestic professional limited liability company or a foreign professional limited liability company
3 authorized to transact business in this state shall annually file before April 15, with each licensing authority having
4 jurisdiction over a professional service of a type described in its articles of organization, a statement of
5 qualification setting forth the names and addresses of the members and managers of the company and additional
6 information that the licensing authority may by rule prescribe as appropriate in determining whether the company
7 is complying with the provisions of part 13 of this chapter and rules promulgated under part 13 of this chapter.
8 The licensing authority may charge a fee to cover the cost of filing a statement of qualification.

9 (7) The tax identification number of the limited liability company may not be disclosed except to the
10 department of revenue pursuant to 15-31-603."

11
12 **NEW SECTION. Section 44. Appropriations.** (1) There is appropriated to the department of revenue
13 \$1,028,863 from the general fund for the administration of the property tax refund provided in [section 3] for the
14 2009 biennium.

15 (2) There is appropriated to the department of revenue \$493,020 from the general fund for the
16 administration of the property tax exemption of class eight property provided for in [section 29, amending
17 15-6-138] for the 2009 biennium.

18
19 **NEW SECTION. Section 45. Notification to tribal governments.** The secretary of state shall send
20 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
21 Chippewa tribe.

22
23 **NEW SECTION. Section 46. Codification instruction.** (1) [Sections 1 and 16 through 21] are intended
24 to be codified as an integral part of Title 15, chapter 30, part 2, and the provisions of Title 15, chapter 30, part 2,
25 apply to [sections 1 and 16 through 21].

26 (2) [Sections 6 through 15] are intended to be codified as an integral part of Title 15, and the provisions
27 of Title 15 apply to [sections 6 through 15].

28 (3) [Sections 5 and 23] are intended to be codified as an integral part of Title 15, chapter 30, part 1, and
29 the provisions of Title 15, chapter 30, part 1, apply to [sections 5 and 23].

30 (4) [Section 22] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the

1 provisions of Title 15, chapter 1, part 1 apply to [section 22].

2

3 COORDINATION SECTION. **Section 47. Coordination instruction.** If ___ Bill No. ___ [LC0004] and [this
4 act] are both passed and approved and they contain a section amending 20-9-366, then the section in [this act]
5 amending 20-9-366 is void and 20-9-366 must be amended as follows on July 1, 2008:

6 **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

7 (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school
8 ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000,
9 with the quotient divided by the total county elementary ANB count or the total county high school ANB count
10 used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement
11 amounts.

12 (2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an
13 eligible district means the taxable valuation in the previous year of all property in the district divided by the sum
14 of the district's current year BASE budget amount less direct state aid and the state special education allowable
15 cost payment.

16 (b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in
17 the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the
18 district used to calculate the district's current year total per-ANB entitlement amount.

19 (3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes,
20 means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and
21 divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school
22 ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB
23 entitlement amounts.

24 (4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base
25 ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable
26 valuation in the previous year of all property in the state, multiplied by ~~175%~~ 198% and divided by the total sum
27 of either the state elementary school districts' or the high school districts' current year BASE budget amounts less
28 total direct state aid.

29 (b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school
30 retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all

1 property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state
2 elementary ANB count or the total state high school ANB amount used to calculate the elementary school
3 districts' and high school districts' current year total per-ANB entitlement amounts."

4
5 **NEW SECTION. Section 48. Severability.** If a part of [this act] is invalid, all valid parts that are
6 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
7 the part remains in effect in all valid applications that are severable from the invalid applications.

8
9 **NEW SECTION. Section 49. Effective dates -- contingency.** (1) [Sections 1 through 21, 23 through
10 28, 33 through 37, 39, 40, 45, 46, 48, and 50 through 52 and this section] are effective on passage and approval.

11 (2) [Section 44] is effective July 1, 2007.

12 (3) [Sections 22, 29 through 32] are effective January 1, 2008.

13 (4) [Sections 38, 42, and 43] are effective on the later of January 1, 2008, or the date when the
14 department of revenue certifies the security of the secretary of state's mainframe application and other relevant
15 computer applications and processes. The director of the department of revenue shall notify the governor, the
16 secretary of state, and the code commissioner when the security of the mainframe application is certified.

17 (5) [Section 41 and 47] are effective July 1, 2008.

18
19 **NEW SECTION. Section 50. Retroactive applicability.** (1) [Sections 5, 23, and 34] apply retroactively,
20 within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

21 (2) [Sections 2 through 4] apply retroactively, within the meaning of 1-2-109, to 2004, 2005, and 2006
22 for Montana property taxes paid before the effective date of [sections 2 through 4].

23 (3) The provisions of [section 8(1) and (2)] apply retroactively, within the meaning of 1-2-109, to any
24 reportable transaction entered into after February 28, 2000, for any tax year or years for which the transaction
25 remains undisclosed and for which the statute of limitations on assessment has not expired as of 60 days after
26 passage and approval of this Act.

27 (4) The provisions of [section 28] apply retroactively, within the meaning of 1-2-109, to new rural
28 telecommunication property placed in service after December 31, 2005.

29 (5) [Section 36] applies retroactively, within the meaning of 1-2-109, to tax years beginning after
30 December 31, 2002.

