

SENATE BILL NO. 507

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX LAWS; REVISING TAX
PROCEDURE LAWS; REVISING VARIOUS PROCEDURES OF THE COUNTY TAX APPEAL BOARD AND
THE MONTANA TAX APPEAL BOARD; ~~ELIMINATING A PROPERTY TAX EXEMPTION FOR CERTAIN~~
~~ENTITIES THAT USE EXEMPT PROPERTY TO PRODUCE UNRELATED BUSINESS TAXABLE INCOME;~~
REQUIRING A FORMER EMPLOYEE OF THE DEPARTMENT OF REVENUE TO WAIT A PERIOD OF TIME
BEFORE APPOINTMENT TO A COUNTY TAX APPEAL BOARD; AMENDING SECTIONS 15-1-222, 15-2-
201, 15-2-301, 15-2-302, 15-2-303, ~~15-6-201~~, 15-7-102, 15-7-105, 15-7-106, 15-15-101, AND 15-15-103, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE AND AN APPLICABILITY DATES DATE."

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

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

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

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

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

Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Taxation

68th Legislature

Drafter: Jaret Coles, 406-444-4022

SB0507.001.001

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

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

(5) at the discretion of the department, upon consideration of all facts relevant to the specific taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis.

This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

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

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

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

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

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

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

(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in

1 Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

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

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

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

8 **15-1-222. (Effective January 1, 2024) Taxpayer bill of rights.** The department of revenue shall in
9 the course of performing its duties in the administration and collection of the state's taxes ensure that:

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

12 (2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the
13 taxpayer's interests before the department, a county tax appeal board, or the Montana tax appeal board. The
14 representative is not considered to be practicing law pursuant to 37-61-201 and is not required to be an
15 attorney or a certified public accountant. The taxpayer has a right to obtain a representative at any time, except
16 that the selection of a representative may not be used to unreasonably delay a field audit that is in progress.
17 The representative must have written authorization from the taxpayer to receive from the department
18 confidential information concerning the taxpayer. The department shall provide copies to the authorized
19 representative of all information sent to the taxpayer and shall notify the authorized representative concerning
20 contacts with the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"15-2-301. Appeal of county tax appeal board decisions. (1) (a) The county tax appeal board shall

1 mail a copy of its decision to the taxpayer and to the property assessment division of the department of
2 revenue.

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

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

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

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

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

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

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

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

28 (3) (a) Except as provided in subsection (3)(b), the Montana tax appeal board shall consider an

1 independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of
2 real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the Montana
3 board does not use the appraisal provided by the taxpayer in conducting the appeal, the Montana board shall
4 provide to the taxpayer the reason for not using the appraisal.

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

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

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

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

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

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

3 **"15-2-302. Direct appeal from department decision to Montana tax appeal board -- hearing. (1)**

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

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

8 (i) property centrally assessed under chapter 23;

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

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

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

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

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

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

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

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

1 Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

2

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

4 **"15-2-303. Judicial review -- costs and attorney fees.** (1) Any party to an appeal before the
5 Montana tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

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

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

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

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

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

28

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

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

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

~~(i) — the United States, except:~~

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

~~(B) — as provided in 15-24-1103;~~

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

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

~~(iv) — municipal corporations;~~

~~(v) — public libraries;~~

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

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

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

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

~~(c) — land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to~~

~~be used exclusively for religious purposes;~~

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

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

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

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

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

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

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

~~(h) — property that is:~~

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

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

~~and~~

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

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

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

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

Montana;

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

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

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

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

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

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

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

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

~~(A) — operated for gain or profit;~~

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

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

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

~~(ii) — For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property~~

~~must be:~~

~~(A) — set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be~~

~~designated as a recreational facility; and~~

~~(B) — open to the general public.~~

~~(b) — For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the~~

~~federal Internal Revenue Code:~~

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

~~(ii) — a commissioned or licensed minister of a church or church denomination that ordains ministers~~

~~if the person has the authority to perform substantially all the religious duties of the church or denomination;~~

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

~~(iv) — a Christian Science practitioner.~~

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

~~(i) — the term "institutions of purely public charity" includes any organization that meets the following~~

~~requirements:~~

~~(A) — The organization offers its charitable goods or services to persons without regard to race,~~

~~religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3),~~

~~Internal Revenue Code, as amended.~~

~~(B) — The organization accomplishes its activities through absolute gratuity or grants. However, the~~

~~organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public~~

~~performances or entertainment or by other similar types of fundraising activities.~~

~~(ii) — agricultural property owned by a purely public charity is not exempt if the agricultural property is~~

~~used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the~~

~~Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file~~

~~annually with the department a copy of its federal tax return reporting any unrelated business taxable income~~

~~received by the charity during the tax year, together with a statement indicating whether the exempt property~~

~~was used to generate any unrelated business taxable income.~~

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

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

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

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

~~(ii) — held for future display; or~~

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

~~(e) — For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection~~

~~(1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-202.~~

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

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

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

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

- (i) change in ownership;
- (ii) change in classification;
- (iii) change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

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

- (i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the

elderly provided for in 15-30-2337 through 15-30-2341;

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

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

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

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

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

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

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

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

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

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

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or

1 improvements, the owner may request an informal classification and appraisal review by submitting an
2 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
3 notice and returning it to the department in a manner prescribed by the department.

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

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

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

25 (b) If the objection relates to residential or commercial property and the objector agrees to the
26 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
27 8 weeks of submission of the objection, the following information:

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

1 and

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

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

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

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

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

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

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

24 (f) After the review, the department shall determine the correct appraisal and classification of the
25 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
26 not determine an appraised value that is higher than the value that was the subject of the objection unless the
27 reason for an increase was the result of a physical change in the property or caused by an error in the
28 description of the property or data available for the property that is kept by the department and used for

calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

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

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

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

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

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

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

"15-7-105. Purpose. In order to produce more uniform appraisal of property throughout the state by encouraging technical training in the principles, methods, and techniques of appraising property and promoting

1 a higher level of professionalism among appraisers, the legislature hereby establishes a system of instruction,
2 examination, and certification for all appraisers. The legislature finds further that members of the Montana tax
3 appeal board must be permitted to benefit from the department's training and receive any instruction that the
4 board considers relevant."

5
6 **Section 8.** Section 15-7-106, MCA, is amended to read:

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

- 10 (a) residential property;
11 (b) agricultural land; and
12 (c) commercial and industrial property.

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

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

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

- 19 (a) personal property assessment;
20 (b) property tax administration; and
21 (c) personnel management, fiscal management, public relations, professional ethics, and related
22 management principles.

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

26 (6) The department shall permit members of the Montana tax appeal board to attend any training
27 provided for in this section without regard to whether a board member has attained a certificate or completed a
28 prerequisite course. Members of the board may not be required to take an examination and the department

1 shall pay for any tuition costs from the department's budget."

2

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

4 **"15-15-101. County tax appeal board -- meetings and compensation.** (1) The board of county
5 commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and
6 with the members to serve staggered terms of 3 years each. The members of each county tax appeal board
7 must be residents of the county in which they serve. A person may not be a member of a county tax appeal
8 board if the person was an employee of the department less than 36 months before the date of appointment.

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

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

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

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

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

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

22 (4) The county tax appeal board shall hold an organizational meeting each year on the date of its
23 first scheduled hearing, immediately before conducting the business for which the hearing was otherwise
24 scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the
25 board. The county tax appeal board shall continue in session from July 1 of the current tax year until December
26 31 of the current tax year to hear protests concerning assessments made by the department until the business
27 of hearing protests is disposed of and, ~~as provided in 15-2-201,~~ may meet after December 31 to hear an appeal
28 at the discretion of the county tax appeal board.

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

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

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

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

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

proceedings before the county board, and the decision must be entered upon the minutes of the county board, and the county board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county board must be transmitted to the Montana board no later than 3 days after the county board holds its final hearing of the year.

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

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

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

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

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

NEW SECTION. Section 11. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

1

2 NEW SECTION. Section 13. Effective ~~dates~~ date. ~~(1) Except as provided in subsection (2), [this act]~~

3 ~~[This act]~~ is effective on passage and approval.

4 ~~(2) — [Section 6] is effective January 1, 2024.~~

5

6 NEW SECTION. Section 14. Applicability. ~~(1) Except as provided in subsection (2), [this act]~~ [This

7 act] applies to county tax appeal board and Montana tax appeal board proceedings filed after [the effective date

8 of this act].

9 ~~(2) — [Section 6] applies to property tax years beginning after December 31, 2023.~~

10

- END -