SENATE BILL NO. 189

INTRODUCED BY M. PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION, INCLUDING PROPERTY AND ENERGY TAX LAWS; REVISING THE REGULATION AND TAXATION OF LARGE ELECTRICAL GENERATING EMISSION SOURCES IN MONTANA; ESTABLISHING THE MONTANA CLIMATE ACTION ACT; REQUIRING THE REPORTING AND MONITORING OF CARBON DIOXIDE EQUIVALENT EMISSIONS; ALLOWING FOR CARBON OFFSETS; GRANTING THE BOARD OF ENVIRONMENTAL REVIEW THE AUTHORITY TO ADOPT RULES AND FEES FOR QUANTIFICATION OF CARBON AND RULES FOR REPORTING AND DOCUMENTING CARBON OFFSETS; ESTABLISHING A CARBON TAX; REQUIRING THE DEPARTMENT OF REVENUE TO COLLECT THE TAX; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; ALLOWING A TAX REDUCTION; CREATING A TAX CREDIT FOR DEVELOPMENT OF ALTERNATIVE ENERGY RESOURCES; ALLOWING A CARRYFORWARD OF REDUCTIONS AND CREDITS; CREATING A CIRCUIT BREAKER INCOME TAX CREDIT FOR PROPERTY TAXES PAID AND RENT-EQUIVALENT PROPERTY TAXES PAID; REPEALING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM, THE DISABLED VETERANS ASSISTANCE PROGRAM, THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY, AND THE INTANGIBLE LAND VALUE PROPERTY EXEMPTION; AMENDING SECTIONS 15-6-201, 15-7-102, 15-16-101, 15-16-102, 15-17-125, 15-18-112, 47-1-111, 53-4-1103, 75-2-111, AND 75-2-221, MCA; REPEALING SECTIONS 15-6-240, 15-6-301, 15-6-302, 15-6-305, 15-6-311, 15-6-312, 15-30-2337, 15-30-2338, 15-30-2339, 15-30-2340, AND 15-30-2341, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 15] may be cited as the "Montana Climate Action Act".

NEW SECTION. **Section 2. Purpose -- legislative intent.** (1) The legislature finds that because climate change is adversely affecting Montana's people, economy, and environment, it is in the best interest of the public that Montana reduce emissions of carbon dioxide.

(2) The intent of [sections 1 through 15] is to protect Montana for our children, our grandchildren, and future generations by quickly and effectively reducing emissions of carbon dioxide and addressing its negative impacts.

(3) Because of uncertainty about how or whether carbon emissions will be regulated and reduced at the federal level, it is incumbent on Montana to develop a plan to reduce emissions, independent of any federal effort.

(4) The legislature further recognizes the risks entailed in a unilateral effort to reduce emissions, but finds that the risks of inaction are of greater significance.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 15], the following definitions apply:

(1) (a) "Carbon dioxide equivalent" or "carbon" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(b) One metric ton of carbon dioxide equivalent is equal to 1 metric ton of carbon dioxide or the amount of another greenhouse gas with the same global warming potential as 1 metric ton of carbon dioxide.

(2) "Carbon offset" means a reduction in the emission of carbon dioxide equivalent elsewhere made to compensate for carbon dioxide equivalent emissions made by a large emission source. The offset must be a verifiable, transferable unit based on a measured amount of permanent carbon storage expressed as a carbon dioxide equivalent that reduces emissions. An offset must be sourced in Montana and represent an action taken in addition to existing practices that reduce emissions. The term includes carbon sequestration as defined in 15-24-3102.

(3) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas designated by the board of environmental review by rule.

(4) "Large emission source" means a major stationary source that generates electricity using fossil fuels and is subject to regulation by the department of environmental quality in accordance with Title 75, chapter 2, parts 1 and 2.

(5) "Owner" means a person who has a legal or equitable interest in a large emission source subject to [sections 1 through 15] or the person's legal representative.

(6) "Person" means an individual, partnership, corporation, association, or other legal entity or any political subdivision or agency of the state or of the federal government.

NEW SECTION. **Section 4. Emission reporting -- rules -- fees.** (1) Before January 1, 2020, the board of environmental review provided for in 2-15-3502 shall adopt rules that:

(a) require the reporting and verification of carbon dioxide equivalent emitted by an owner of a large emission source in Montana to the department of environmental quality;

(b) in accordance with subsection (2), adopt a schedule requiring the quantification and reporting of carbon dioxide equivalent emitted by an owner of a large emission source and the reporting of corresponding carbon offsets;

(c) ensure rigorous and consistent accounting of carbon dioxide equivalent and carbon offsets and provide reporting tools and formats to ensure the collection of necessary information, including third-party verification, as needed;

(d) ensure that an owner of a large emission source and the department of environmental quality provide for the maintenance of comprehensive records of all reported carbon dioxide equivalent and carbon offsets;

(e) provide for the tracking, reporting, and documentation of carbon offsets; and

(f) are consistent with comparable regional and national efforts.

(2) Before January 1, 2020, the board of environmental review shall adopt rules that:

(a) establish a schedule of fees to be paid to the department of environmental quality by an owner of a large emission source required to report and verify emissions pursuant to rules established under this section; and

(b) specify procedures, including timeframes for application, and definitions necessary to identify property for certification of carbon offsets. The percentage of the carbon dioxide equivalent that is offset must be based on technology that is practically obtainable as determined by the department of environmental quality.

(3) (a) The fees in subsection (2) must be sufficient to cover the reasonable costs, direct and indirect, of administering and complying with the rules and requirements established pursuant to this section.

(b) All fees collected must be deposited in the large emission source reduction and reporting account provided for in [section 5].

NEW SECTION. **Section 5. Large emission source reduction and reporting account.** (1) There is a large emission source reduction and reporting account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the fees collected pursuant to rules established under [section 4]; and

(b) money received by the department of environmental quality in the form of legislative allocations, reimbursements, gifts, or appropriations from any source that is intended to be used for the purposes of the account.

(3) The account may be used by the department of environmental quality to administer and comply with the rules and requirements established pursuant to [section 4].

NEW SECTION. **Section 6. Carbon tax -- authority of department of revenue.** (1) A carbon tax is imposed on and must be collected from the owners of large emission sources.

(2) (a) Except as provided in [sections 13 and 14], beginning January 1, 2020, the carbon tax on owners of large emission sources is equal to $10 per metric ton of carbon dioxide equivalent emitted, less any carbon offsets verified by the department of environmental quality in accordance with subsection (2)(b) and rules adopted by the board of environmental review in accordance with [section 4].

(b) An owner of a large emission source may reduce up to 50% of its carbon dioxide equivalent emissions subject to the tax by using carbon offsets. Carbon offsets must be tracked, verified, and documented in accordance with rules adopted by the board of environmental review.

(3) The tax is deposited in the state general fund and used to fund the property tax and rent-equivalent property tax circuit breaker provided for in [sections 16 through 19].

(4) The carbon tax must be paid to the department of revenue in quarterly installments, and the amount of the tax for each quarter must be paid to the department within 30 days after the end of each quarter. The owner of a large emission source shall pay the tax.

(5) The owner shall complete on forms prescribed by the department a statement showing:

(a) the name and address of the owner of the large emission source;

(b) the description and location of the large emission source;

(c) the metric tons of carbon dioxide equivalent emitted by the large emission source during the period covered by the statement;

(d) a statement from the department of environmental quality verifying the tonnage provided in subsection (5)(c); and

(e) documentation required in [section 13] of any payment to the state or a local government where a large emission source is located in settlement of community obligations arising from the planned

decommissioning or closure of a large emission source.

(6) The statement must be signed by the person making the statement.

(7) The statement must be accompanied by the tax due.

(8) For the purpose of determining compliance with the provisions of [sections 7 through 15] and this section, the department of revenue may examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(a) require the attendance of a person having knowledge or information relevant to a statement;

(b) compel the production of books, papers, records, or memoranda by the person required to attend;

(c) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(d) take testimony on matters material to the determination; and

(e) administer oaths or affirmations.

NEW SECTION. **Section 7. Examination of statement -- adjustments -- delivery of notices and demands.** (1) If the department of revenue determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 6] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's statement, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the statement unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the statement and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the statement.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's statement, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

NEW SECTION. **Section 8. Penalties and interest for violation.** (1) (a) A person who fails to file a statement as required by [section 6] must be assessed a penalty as provided in 15-1-216. The department of revenue may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the statement required by [section 7] and to pay the tax on or before the due date must be assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216.

NEW SECTION. **Section 9. Authority to collect delinquent taxes.** (1) (a) The department of revenue shall collect taxes that are delinquent as determined under [sections 6 through 15].

(b) If a tax imposed by [section 6] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

NEW SECTION. **Section 10. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the statement and tax were originally due.

(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216(2)

must be added to the amount of the deficiency.

NEW SECTION. **Section 11. Limitations.** (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent statement violating the provisions of [sections 6 through 15], a deficiency may not be assessed or collected with respect to a tax period for which a statement is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the statement was filed. For purposes of this section, a statement filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

NEW SECTION. **Section 12. Credit or refund for overpayment -- refund -- interest on overpayment.** (1) If the department of revenue determines that the amount of tax, penalty, or interest due for any semiannual period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed, must be withheld from the current distribution.

(b) If the amount of the refund reduces the amount of tax previously distributed and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the department to which the tax was originally distributed.

(3) Except as provided in subsection (4), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the statement or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the statement is due or from the date on which the statement is filed, whichever is later; or

(ii) if the amount of interest is less than $1.

NEW SECTION. **Section 13. Carbon tax -- community obligations reductions.** (1) (a) Except as provided in subsection (1)(b), if an owner of a large emission source enters into an agreement that includes payment to the state or a local government where a large emission source is located in settlement of community obligations arising from the planned decommissioning or closure of a large emission source, the department of revenue shall reduce the amount of the carbon tax due in the year that the payment is made by the amount of settlement paid by the owner.

(b) The reduction in taxes allowed for in subsection (1)(a) combined with any credits received in accordance with [section 14] may not total more than 10% of the owner's total annual tax liability under [section 6].

(c) If an obligation combined with credits is greater than 10% of the owner's total annual tax liability under [section 6], the reduction may be carried forward to the succeeding tax year or years, except that a carryforward may not exceed 5 tax years.

(2) Documentation required in [section 6(5)(e)] must include a signed agreement between the owner and the state, local government, or both, proof of the dollar amount committed to the state, a local government, or both, and proof of deposit of the money in the appropriate state or local government treasury.

NEW SECTION. **Section 14. Carbon tax credit -- clean energy investments.** (1) (a) Except as provided in subsection (1)(b), an owner is allowed a credit against the tax imposed in [section 6] for 100% of the costs incurred by the owner investing in an alternative renewable energy source in accordance with this subsection (1). An owner seeking a credit shall apply each year to the department of revenue.

(b) An owner's annual credit under subsection (1)(a) combined with any reductions claimed under [section 13] may not exceed 10% of the owner's total annual tax liability under [section 6].

(c) If credit combined with reductions is greater than 10% of the owner's total annual tax liability under [section 6], the credit may be carried forward to the succeeding tax year or years, except that a carryforward may not exceed 5 tax years.

(d) The department of revenue shall provide forms on which an owner may apply for the tax credit under

this subsection (1).

(2) (a) To claim the credit under this section, the owner of a large emission source must provide documentation that the owner incurred costs by:

(i) investing in an alternative renewable energy source as defined in 15-6-225 located in Montana; or

(ii) constructing an alternative renewable energy source on or after [the effective date of this act] located in Montana.

(b) Construction of an alternative renewable energy source must include contracts that meet the requirements of 69-3-2005(3).

NEW SECTION. **Section 15. Administration -- department of revenue rules.** The department of revenue shall:

(1) administer and enforce the provisions of [sections 6 through 14];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 6 through 14]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 6 through 14].

NEW SECTION. **Section 16. Property tax and rent-equivalent property tax circuit breaker credit -- definitions.** As used in [sections 16 through 19], the following definitions apply:

(1) "Claim period" means the tax year for claimants required to file a Montana tax return or returns under chapter 30 and the calendar year for claimants not required to file returns.

(2) "Claimant" means a person who is eligible to file a claim for a credit under [sections 16 through 19].

(3) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the qualified rental residence pursuant to an arm's-length transaction with the landlord.

(4) (a) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(5) "Household income" means all income received by all persons of a household in a tax year while they are members of the household.

(6) "Income" means the income as reported on the tax return or returns required by chapter 30 for the tax year in which the credit allowed under [sections 16 through 19] is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. If the claimant is not required to file a tax return under chapter 30, household income means the household's total income as it would have been calculated under this subsection if the claimant had been required to file a return.

(7) "Property tax billed" means taxes levied against the qualified residence, including special assessments and fees but excluding penalties or interest during the claim period.

(8) (a) (i) "Qualified rental residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home that is rented from a third party, located in Montana, and subject to property taxes and as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling.

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

(b) Except for dwellings rented from a county or municipal housing authority, the term does not include rented dwellings or rented lands that are not subject to Montana property taxes during the claim period.

(9) "Qualified residence" means any owner-occupied class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home located in Montana that is subject to property taxes and as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling.

(10) "Rent-equivalent property tax paid" means 15% of gross rent.

(11) "Tax year" means the property tax year preceding the current year in which a claim for a property tax circuit breaker credit is made.

(12) "Threshold amount" means the amount determined based on household income using the following formulas:

Household Income	Threshold Amount
$0 to $100,000	0.021 x household income
$100,001 to $200,000	2,100 + 0.023 (household income - 100,000)
$200,001 or more	4,400 + 0.025 (household income - 200,000)

NEW SECTION. **Section 17. Property tax and rent-equivalent property tax circuit breaker credit**

-- eligibility. (1) In order to make a claim for a credit under [sections 16 through 19], the individual must have:

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

(b) occupied one or more qualified residences as an owner or one or more qualified rental residences as a renter or lessee for at least 7 months of the tax year.

(2) A person is not disqualified from claiming the credit under [sections 16 through 19] because of a change of residence during the claim period if the person occupies a qualified residence as an owner or a qualified rental residence in Montana as a renter or lessee for at least 7 months during the claim period.

(3) Only one claim for a property tax circuit breaker credit may be made with respect to any qualified residence.

(4) A claim for the credit may not be allowed for any portion of property taxes billed or rent-equivalent taxes paid that is derived from a public tax subsidy program or public rent subsidy program.

(5) A claim is disallowed if the department finds that the claimant received title to the claimant's qualified residence primarily for the purpose of receiving benefits under [sections 16 through 19].

(6) When the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the amount considered gross rent to a reasonable amount.

NEW SECTION. **Section 18. Property tax and rent-equivalent property tax circuit breaker credit -- credit amount.** (1) There is a credit against the taxes imposed by this chapter for a portion of property tax billed and rent-equivalent property taxes paid by a claimant in the tax year as provided in this section.

(2) The amount of the credit allowed under this section is equal to property taxes billed or rent-equivalent property taxes paid in the tax year times 0.85 minus the threshold amount.

(3) If the amount determined is equal to or less than zero, there is no credit.

(4) If two or more individuals share a qualified rental residence, each individual may claim the credit based on the proportional share that the individual pays of the gross rent.

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

NEW SECTION. **Section 19. Property tax and rent-equivalent property tax circuit breaker tax**

credit -- filing date -- denial of claim. (1) Except as provided in subsection (3), a claim for the credit must be submitted at the same time the claimant's tax return is due under chapter 30. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which the credit is sought.

(2) A receipt showing property taxes billed or gross rent paid must be filed with each claim. Each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) If an individual who would have a claim under [sections 16 through 19] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under [sections 16 through 19] within 3 years from the last day prescribed for filing a claim for relief.

(6) A person filing a false or fraudulent claim under the provisions of [sections 16 through 19] must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid, penalties, and interest may be recovered as provided in 15-1-216.

Section 20. 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~~ is 62 years of age or older and has a gross household income as defined in 47-1-111 of less than $45,000 ~~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."

Section 21. 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 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 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~~ the property tax and rent-equivalent property tax circuit breaker credit provided for in [sections 16 through 19];

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

(iii) a statement that the notice is not a tax bill.

(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 improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose.

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

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

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once

each valuation cycle. An objection must be made in writing within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer must make the objection in writing no later than June 1 of the year for which the value is being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle, within 30 days from the date on the notice.

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

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

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

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

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

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

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

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

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the 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; 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 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 state 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 state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, 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 state 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 22. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice -- manner of publication. (1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

(i) the taxable value of the property;

(ii) the total mill levy applied to that taxable value;

(iii) itemized city services and special improvement district assessments collected by the county;

(iv) the number of the school district in which the property is located;

(v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; and

(vi) 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 under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341~~ the property tax and rent-equivalent property tax circuit breaker credit provided for in [sections 16 through 19].

(b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to draw attention, a statement that a tax lien is attached to the property, that failure to respond will result in loss of property, and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year

or of delinquent tax will not affect the legality of the tax.

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

Section 23. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

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

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

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

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

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

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

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

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

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

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 24. Section 15-17-125, MCA, is amended to read:

"15-17-125. Attachment of tax lien and preparation of tax lien certificate. (1) (a) The county treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are delinquent and for which proper notification was given as provided in 15-17-122 and subsection (4) of this section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless the tax lien is assigned pursuant to 15-17-323.

(b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for which proper notice was not given.

(2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:

(a) the date on which the property taxes became delinquent;

(b) the date on which a property tax lien was attached to the property;

(c) the name and address of record of the person to whom the taxes were assessed;

(d) a description of the property on which the taxes were assessed;

(e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;

(f) a statement that the tax lien certificate represents a lien on the property that may lead to the issuance of a tax deed for the property;

(g) a statement specifying the date on which the county or an assignee will be entitled to a tax deed; and

(h) an identification number corresponding to the tax lien certificate.

(3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the person may

contact the county treasurer for further information on property tax liens.

(4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending attachment of a tax lien to the person to whom the property was assessed. The notice must include the information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of the availability of ~~all the property tax assistance programs available to property taxpayers, including the property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341~~ the property tax and rent-equivalent property tax circuit breaker credit provided for in [sections 16 through 19]. The notice must have been mailed at least 2 weeks prior to the date on which the county treasurer attaches the tax lien.

(5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."

Section 25. Section 15-18-112, MCA, is amended to read:

"15-18-112. Redemption from property tax lien -- lien on interest in property for taxes paid. (1) ~~(a)~~ Except as provided in ~~subsections (1)(b) and~~ subsection (4), in all cases in which a property tax lien has been assigned, the assignee may pay the subsequent taxes assessed against the property on or after June 1 and prior to July 31 if the taxes have not been paid by the property owner.

~~(b) If the property qualifies for the property tax assistance program provided for in 15-6-305 and the taxes have not been paid by the property owner, the subsequent taxes may be paid after the time period provided for in 15-16-102(4)(b) and prior to July 31.~~

(2) Upon redemption of the property tax lien, the redemptioner shall pay, in addition to the amount of the property tax lien, including penalties, interest, and costs, the subsequent taxes assessed, with interest and penalty at the rate established for delinquent taxes in 15-16-102.

(3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned by the redemptioner.

(4) The property tax lien may also be redeemed for a particular tax year by a partial payment of that tax year, as provided in 15-16-102(5), if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) the tax deed has not been issued pursuant to 15-18-211."

Section 26. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) When a court orders the office to assign counsel to an applicant for public defender services, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately file a motion to rescind appointment so that the court's order may be rescinded.

(c) (i) The applicant may request that the court conduct a hearing on the motion to rescind appointment. If the applicant requests a hearing on the motion to rescind appointment, the court shall hold the hearing.

(ii) The sole purpose of the hearing is to determine the financial eligibility of the applicant for public defender services. At the beginning of the hearing, the court shall admonish the parties that the scope of the hearing is limited to determining the financial eligibility of the applicant for public defender services.

(iii) Only evidence related to the applicant's financial eligibility for public defender services may be introduced at the hearing.

(iv) The applicant may not be compelled to testify at a hearing on the motion to rescind appointment.

(v) If the applicant testifies at the hearing, the applicant may be questioned only regarding financial eligibility for public defender services.

(vi) If the applicant testifies at the hearing, the court shall advise the applicant that any testimony or evidence introduced on the applicant's behalf other than testimony or evidence regarding financial eligibility may be used during any criminal action.

(vii) Evidence regarding financial eligibility under this section may not be used in any criminal action, except in a criminal action regarding a subsequent charge of perjury or false swearing related to the applicant's claim of entitlement to public defender services.

(d) If the applicant does not request a hearing on the motion to rescind appointment, does not appear at a hearing on the motion to rescind appointment, or does not testify or present evidence regarding financial eligibility at the hearing on the motion to rescind appointment, the court shall find the applicant is not eligible to have counsel assigned under Title 47 and shall grant the motion to rescind appointment and order the assignment of counsel to be rescinded.

(e) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court grants the motion to rescind appointment and orders the assignment of counsel to be rescinded.

(f) Any determination pursuant to this section is subject to the review and approval of the court. The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.

(2) (a) An applicant for public defender services who is eligible for a public defender because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit. The court shall advise the defendant that the defendant is subject to criminal charges for any false statement made on the financial statement.

(b) The application, financial statement, and affidavit must be on a form prescribed by the central services division provided for in 47-1-119. The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in ~~15-30-2337~~ subsection (8), is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The central services division shall ensure that determinations based on presumptive eligibility, income

and assets, and substantial hardships are done in a consistent manner throughout the state. The central services division shall verify information on the application form for all applicants seeking counsel under subsection (3)(b).

(7) The central services division shall establish procedures and adopt rules to implement this section. The procedures and rules:

(a) must ensure that the eligibility determination process is done timely and is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit a public defender from performing eligibility screening for the public defender's own cases pursuant to this section. A deputy public defender or individual public defender reviewing another public defender's case may oversee eligibility screening pursuant to this section.

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

(a) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(b) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting $6,300 from gross household income.

(d) (i) "Income" means, except as provided in subsection (8)(d)(ii), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

(A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(B) the amount of capital gains excluded from adjusted gross income;

(C) alimony;

(D) support money;

(E) nontaxable strike benefits;

(F) cash public assistance and relief;

(G) interest on federal, state, county, and municipal bonds; and

(H) all payments received under federal social security except social security income paid directly to a nursing home.

(ii) For the purposes of this subsection (8)(d), income is reduced by the taxpayer's basis."

Section 27. Section 53-4-1103, MCA, is amended to read:

"53-4-1103. Definitions. For purposes of part 10 and this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "Habilitative services" means services to help a child maintain, learn, or improve skills and functioning for daily living or to prevent deterioration of skills and that may be offered in a variety of settings. The services include but are not limited to:

(a) physical therapy;

(b) occupational therapy;

(c) speech-language pathology; and

(d) behavioral health treatment, including applied behavior analysis provided by a board-certified behavior analyst.

(6) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(7) (a) "Income" ~~has the meaning provided in 15-30-2337(9)(a)~~ means, except as provided in subsection (7)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home.

(b) For the purposes of this subsection (7), income is reduced by the taxpayer's basis.

(8) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(9) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(10) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

Section 28. Section 75-2-111, MCA, is amended to read:

"75-2-111. Powers of board. The board shall, subject to the provisions of 75-2-207:

(1) adopt, amend, and repeal rules for the administration, implementation, and enforcement of this chapter, for issuing orders under and in accordance with 42 U.S.C. 7419, and for fulfilling the requirements of 42 U.S.C. 7420 and regulations adopted pursuant to that section, except that, for purposes other than agricultural open burning, the board may not adopt permitting requirements or any other rule relating to:

(a) any agricultural activity or equipment that is associated with the use of agricultural land or the planting, production, processing, harvesting, or storage of agricultural crops by an agricultural producer and that is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

(b) a commercial operation relating to the activities or equipment referred to in subsection (1)(a) that remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a; or

(c) forestry equipment and its associated engine used for forestry practices that remain in a single location for less than 12 months and are not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a;

(2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place designated by the board. The board may compel the attendance of witnesses and the production of evidence at hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who must be present at all hearings and take full stenographic notes of all proceedings, transcripts of which will be available to the public at cost.

(3) issue orders necessary to effectuate the purposes of this chapter;

(4) by rule require access to records relating to emissions;

(5) by rule adopt a schedule of fees required for permits, permit applications, and registrations consistent with this chapter;

(6) by rule adopt a schedule of fees to cover the costs of administering [sections 3 through 5] for large emission sources consistent with this chapter;

~~(6)~~(7) have the power to issue orders under and in accordance with 42 U.S.C. 7419."

Section 29. Section 75-2-221, MCA, is amended to read:

"75-2-221. Deposit of air quality permitting and registration fees. (1) ~~All~~ Except as provided in [section 4(3)], all money collected by the department pursuant to 75-2-111 and 75-2-220 must be deposited in an account in the state special revenue fund to be appropriated by the legislature to the department for the development and administration of the permitting and registration requirements of this chapter.

(2) Upon request, the expenditure by the department of funds in this account may be audited by a qualified auditor at the end of each fiscal year. The cost of the audit must be paid by the person requesting the audit."

NEW SECTION. **Section 30. Repealer.** The following sections of the Montana Code Annotated are repealed:

15-6-240. Intangible land value property exemption -- application procedure.

15-6-301. Definitions.
15-6-302. Property tax assistance -- rulemaking.
15-6-305. Property tax assistance program -- fixed or limited income.
15-6-311. Disabled veteran program.
15-6-312. Time period for property tax assistance.
15-30-2337. Residential property tax credit for elderly -- definitions.
15-30-2338. Residential property tax credit for elderly -- eligibility -- disallowance or adjustment.
15-30-2339. Residential property tax credit for elderly -- filing date.
15-30-2340. Residential property tax credit for elderly -- computation of relief.
15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.

NEW SECTION. **Section 31. Transition.** (1) Exemptions granted under 15-6-240, 15-6-305, and 15-6-311 prior to [the effective date of this act] apply to property tax payments due November 30, 2018, and May 31, 2019.

(2) The residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341 may be claimed for the tax year ending December 31, 2018.

NEW SECTION. **Section 32. Codification instruction.** (1) [Sections 1 through 15] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 15].

(2) [Sections 16 through 19] are intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [sections 16 through 19].

NEW SECTION. **Section 33. 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.

NEW SECTION. **Section 34. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 35. Retroactive applicability -- applicability.** (1) [Sections 16 through 19] apply retroactively, within the meaning of 1-2-109, to income tax years beginning after December 31, 2018.

(2) [Sections 13 and 14] apply to the tax year beginning after December 31, 2018.

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