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# Summary of Legislation Affecting the Department of Revenue

59<sup>th</sup> Legislative Assembly  
2005 Legislative Session



*June 2005*

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# Property Tax

HB 38 Short Title: **Limit land for public charity property tax exemption**

Primary Sponsor: Walter McNutt

HB 38 amends 15-6-218, MCA by placing limits on the amount of land a purely public charity may exempt. Under this legislation, no more than 160 acres may be exempted from property taxation. The new law requires that a legal description of the property for which the exemption is requested accompany the exemption application.

Effective Date: Passage and approval (February 23, 2005)  
Applicability Date: Applies retroactively to property tax exemption applications made after December 31, 2004

HB 115 Short Title: **Generally revise property tax exemption laws**

Primary Sponsor: Walter McNutt

HB 115 revises the law relating to property tax exemptions.

Under the new law, churches are limited on the number of residences and the amount of land that may be exempted from property taxes. A church may only exempt the residence and the land, not to exceed one (1) acre, adjacent to the residence for each clergy member. Churches may only exempt up to fifteen (15) acres for land and improvements used for worship activities and for educational or youth recreational activities, provided the recreational land and facilities are open to the public. Under the new law, applications for exemptions submitted by a church must identify all the land for which an exemption is sought. The new law also adds a definition of clergy to statute that comports with the definition in the federal IRS code.

For agricultural and horticultural property, HB 115 stipulates that the property must be owned by the society and not operated for gain or profit.

Nonprofit educational institutions are restricted by the new law to an exemption limit of 80 acres for property owned. The law also sets forth requirements for receiving and maintaining the educational institution property tax exemption including:

- The educational institution must be operating as a nonprofit organization.
- Property for which an exemption is claimed must be used exclusively for educational purposes.
- The institution must have an attendance policy and a definable curriculum with systematic instruction.
- Applications for exemption submitted by an educational institution must identify all land for which an exemption is sought.

For nonprofit healthcare institutions, a stipulation was added that land for which an exemption is claimed must be exclusively used for health care facilities.

The law also provides for tax repayment on property, owned by a purely public charity, which was granted an exemption but was not used for the intended charitable purpose within eight years of purchase by the qualifying organization.

Throughout the statute, HB 115 changed the language “not used or held for private and corporate profit” to “not operated for gain or profit.”

Effective Date: Passage and approval (May 6, 2005)  
 Applicability Date: Applies retroactively to property tax exemption applications made after December 31, 2004

HB 227 Short Title: **Revising deferral of property taxes for active military personnel**

Primary Sponsor: Kathleen Galvin-Halcro

HB 227 clarifies the conditions under which a member of the military may delay payment of property taxes without penalty or interest. The bill specifies that, to qualify, the individual must be a Montana resident and must be serving in a combat zone or military operation outside the state.

For those who qualify, the bill specifies that interest on taxes due may not accrue until one (1) year after the cessation of hostilities or one (1) year after the taxpayer is released from active duty. If the taxpayer was wounded, injured, or suffered a disease while serving in a combat zone and required hospitalization, collection proceedings may not be taken and penalties or interest may not accrue until one (1) year after the taxpayer's release from the hospital.

Effective Date: October 1, 2005

Applicability Date: Applies to applications for deferral made October 1, 2005 or thereafter

HB 689 Short Title: **Clawback provision for tax abatements**  
Primary Sponsor: Elsie Arntzen

HB 689 provides for the recapture of property tax abatements if the ownership or use of the property no longer meets the requirements for tax abatement. Recapture of abatements is provided for new and expanding industries, building remodels, reconstructions or expansions, business incubators, industrial parks, economic development organizations, or value-added manufacturing facilities. The amount of recapture is equal to the amount of taxes avoided, plus interest and penalties.

Effective Date: October 1, 2005

HJ 43 Short Title: **Resolution to study the classification and valuation of agricultural land**  
Primary Sponsor: Jim Peterson

HJ 43 establishes an interim legislative committee charged with examining current methods used for property tax classification and valuation of agricultural land, exploring alternative classification and valuation methods, and addressing differences and deficiencies in current agricultural land classifications.

The committee is to include representatives of the Department of Revenue, the Department of Agriculture, and persons and organizations knowledgeable in agriculture and agricultural economics.

The study is to be concluded before September 15, 2006 and the results of the study, including any findings, conclusions, comments, or recommendations reported to the 60<sup>th</sup> Legislature.

HJ 44 Short Title: **Study taxation of oil and gas production, equipment, and transmission pipelines**  
Primary Sponsor: Alan Olson

HJ 44 establishes an interim legislative committee to study the property taxation of oil and natural gas property. The committee is to review the types of property subject to tax, explore ownership

patterns of centrally assessed property, evaluate the importance of oil and natural gas property to the tax structures of taxing jurisdictions, and examine Department of Revenue and state policies and procedures with respect to oil and natural gas property. The Legislative Council is directed to designate an appropriate interim committee. All aspects of the study, including presentation and review requirements, are to be concluded before September 15, 2006.

SB 48      Short Title: **Stop Class 8 property tax reduction**

Primary Sponsor: Dan Harrington

SB 48 removes the “trigger” that could have phased-out the 3% tax rate on Class 8 business equipment. The reduction was contingent on an increase in inflation-adjusted Montana wage and salary income equal to or exceeding 2.85%. Under the prior law, this increase would have triggered a decrease in the taxable percentage applied to Class 8 property by 1% per year continuing for three (3) years until the taxable percentage reached zero.

SB 48 also increases the cap on the aggregate market value of Class 8 business equipment that is exempt from property taxation. Under prior law, entities that owned Class 8 property with an aggregate market value of \$5,000 or less were exempt from taxation. Those with Class 8 property with a market value worth, in aggregate, more than \$5,000 did not receive any exemption.

Under the new law, the cap for the exemption is raised from \$5,000 to \$20,000 in aggregate market value. Those entities with \$20,000 or more in Class 8 property will be subject to the statutory tax rate of 3% of the equipment’s market value on all their business equipment.

Effective Date:            Passage and approval (April 28, 2005)

Applicability Date:      Applies to tax years beginning after December 31, 2005

SB 68      Short Title: **Recodify property tax exemption laws**

Primary Sponsor: Joe Balyeat

This bill is a housekeeping bill that:

- Classifies property types and property exemptions, which had been randomly interspersed within 15-6-201, MCA, into distinct statutory categories.

- Removes from the Class 4 property statutes the references and taxable percentage rates for tax years 2003 and 2004.
- Provides the market value exemptions and tax rates for Class 4 residential land and improvements through tax year 2008.

Effective Date: October 1, 2005

SB 167 Short Title: **Technology districts -- tax increment financing**

Primary Sponsor: Jeff Mangan

SB 167 authorizes the creation of technology districts to encourage the location and retention of technology development projects. The law allows technology districts to use tax increment financing and issue bonds from tax increments. Specific conditions and criteria set forth for the technology district and its tenants include:

- Tenants must be technology-based operations with either 50% or more of their sales to businesses outside the state, or sales of 50% or more to other Montana businesses that in turn sell at least 50% of their product outside the state.
- The technology district must be a continuous area zoned for use in accordance with the area growth policy and not comprise any property included within an existing urban renewal or industrial development district.
- The area must be found, before the technology district's creation, to be deficient in infrastructure improvements necessary for technology development.
- The technology district must have a development plan that ensures the ability of the technology district to host multiple, independent tenants. A district designed to serve a single tenant or a group of non-independent tenants cannot qualify as a technology district.

Effective Date: Passage and approval (May 2, 2005)

SB 261 Short Title: **Revise manufactured home tax declaration process**

Primary Sponsor: Gary Perry

SB 261 adds statutory language directing that a manufactured home be classified as an improvement for tax purposes once:

- it can no longer be transported over public highways;

- the home is placed on land, and;
- the homeowner has recorded, with the county clerk and recorder, a statement of intent declaring the manufactured home as an improvement to real property.

SB 261 adds a requirement that, if the owner of a manufactured home, which was classified as an improvement, wishes to restore a certificate of title to move the home, and, therefore, have the manufactured home considered personal property, the owner must file a statement of reversal of declaration with the county clerk and recorder. If a statement of reversal of is not filed, the manufactured home will continue to be assessed as real property even after the home is moved.

The bill also clarifies the processes of manufactured home titling and title transferring.

Effective Date: October 1, 2005

SB 271 Short Title: **Adjust guaranteed tax base for property tax protests**

Primary Sponsor: Jim Elliott

SB 271 provides for an adjustment to the guaranteed tax base aid payment to a school district affected by a tax protest(s) if the final taxable valuation of the school district is reduced because of the resolution of a tax protest.

Upon resolution of the protest, the Superintendent of Public Instruction must compare the amount that the school district would have been eligible to receive, using the revised valuation, to the amount of guaranteed tax base aid that the district general fund actually received. If the calculation exceeds the amount of guaranteed tax base aid paid to the school district's general fund, the Superintendent of Public Instruction shall request an appropriation for the difference.

To qualify for the adjustment, the taxes protested must have exceeded 10% of the taxable value for the district.

Effective Date: Passage and approval

Applicability Date: Applies to school fiscal years beginning after June 30, 2002



SB 296 Short Title: **Alternative method for assessing, taxing certain land parcels**

Primary Sponsor: Jerry Black

SB 296 changes the eligible income test and other criteria the Department of Revenue considers when assessing 20 to 160 acre tracts for agricultural land classification. The new law makes land that is farmed or ranched along with a family operation eligible for agricultural land classification if:

- the owner is involved in agricultural production in the state and submits proof that 51% of the owner's Montana annual gross income is derived from agricultural production;
- the property taxes are paid by a family business entity involved in Montana agricultural production and 51% of the Montana gross income of the family business entity comes from agricultural production; or
- the owner is a shareholder, partner, owner or member of the family business entity involved in agricultural production and more than 51% of the family business entity income comes from agricultural production in Montana.

The owner of a 20-160 acre parcel would only need to meet one of the three criteria listed above in order to qualify the land for agricultural classification. Under the new law, particular parcels can now qualify for agricultural land classification, even though the ownership of the land is in different names.

The new law applies only to parcels that do not meet the current \$1,500 income requirement contained in 15-7-202, MCA.

Effective Date: January 1, 2006

Applicability Date: Applies to tax years beginning after December 31, 2005

SB 345 Short Title: **Revise tax increment financing district laws**

Primary Sponsor: Jeff Mangan

SB 345 revises a number of statutory provisions relating to tax increment finance (TIF) districts.

The bill amends 15-10-420, MCA providing clarity on the timing of when the taxable value of property associated with a TIF district becomes "newly taxable property."

The new law specifically states that the incremental taxable value growth within a TIF district is not newly taxable property for other government units, but is exclusive to the TIF district. The incremental value of the TIF becomes newly taxable property to other taxing jurisdictions if the TIF district expires prior to the certification of taxable values as required in 15-10-202.

For example, the incremental value of a TIF that expires on July 1 would become newly taxable property to the other taxing jurisdictions for that tax year. However, the incremental value of a TIF expiring October 1 would not become newly taxable value to the other taxing jurisdictions until the following tax year.

The new law also clarifies that during the first year of existence of the TIF an adjustment may be made to the base taxable value for a loss in taxable revenue resulting from the state granting property in the district tax-exempt status. An adjustment to taxable value is only permitted if the TIF has not yet issued bonds.

SB 345 also provides guidance on how a municipality may retain or use TIF district properties and funds:

- Under the new law, municipalities are allowed to retain and use tax increment monies after the termination of the increment district if there is a binding loan commitment, construction contract or development agreement(s) that was entered into before the termination. Under the prior law, the funds would have been distributed to all taxing jurisdictions proportionately based on mill levies.
- A municipality may also enter into an assessment agreement that would establish a minimum market value of a property. The minimum value established in the assessment agreement is only binding on the parties entering into the agreement and does not affect the Department of Revenue's authority to determine value for property tax purposes.
- If the value established in an assessment agreement falls below the market value established by the Department of Revenue, the individual bound by the agreement would be liable for payment of a tax deficiency to the municipality. The existence of an assessment agreement creates a lien on the property and the agreement must be filed with the county clerk and recorder.

Effective Date: July 1, 2005  
Applicability Date: Section 2 applies to TIF districts created after January 1, 2002. The remaining sections are applicable July 1, 2005.

SB 524      Short Title: **Revise date of valuation of certain classes  
of property**

Primary Sponsor: Mike Cooney

SB 524 delays by one (1) year the revaluation of all taxable property within Class 3 (agricultural land), Class 4 (residential and commercial real property and improvements), and Class 10 (forestland). The law extends the due date for completion of the revaluation process and legislative submission of a reappraisal plan from January 1, 2008 to January 1, 2009.

The reappraisal of the 51 million acres of agricultural land in Class 3 is scheduled to begin July 1, 2005 and be completed December 31, 2008. The agricultural land reappraisal will be a “phased in approach” to ensure that all elements being incorporated are accurate and that the several new computer applications used in the processes are working properly.

Moving the date forward one year provides the Department of Revenue sufficient time to test the new systems and processes for revaluing Class 3 property as well as complete the appraisals of Class 4 and Class 10 properties.

Effective Date:            October 1, 2005

## Individual and Corporate Income Taxes

HB 439 Short Title: **Disallow double credit for foreign income tax payment**

Primary Sponsor: Brady Wiseman

HB 439 amends 15-30-124, MCA to provide that Montana's credit against individual income tax for income taxes paid to foreign states or countries is not allowed on taxes imposed by a foreign country to the extent that a credit for the taxes imposed by the foreign country was claimed for federal income tax purposes.

Effective Date: October 1, 2005

HB 513 Short Title: **Extend tax credit for donation for developmental disabilities services**

Primary Sponsor: Holly Raser

HB 452, passed during the 2003 legislative session, provided for a new tax credit against individual income or corporation license taxes for donations made to an account to fund programs for the developmentally disabled. That bill provided for a termination date of January 1, 2006 for the credit. HB 513 extends the termination date for the credit from January 1, 2006 to January 1, 2008.

Effective Date: October 1, 2005

HB 584 Short Title: **Promote growth of film and other media in Montana**

Primary Sponsor: Christopher Harris

HB 584, cited as the "*Big Sky on the Big Screen Act*", is intended to enhance Montana's economy by revitalizing and expanding the motion picture and television industries and related media in Montana.

Under HB 584, "production companies" producing "state-certified productions" are entitled to two separate tax credits against individual income and corporation license taxes:

- The "*employment production tax credit*" is equal to 12% of the first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the production during the tax year. This credit may be refunded if the credit

exceeds the taxpayer's tax liability, or may be carried forward for up to 4 years.

- The “*tax credit for qualified expenditures*” is equal to 8% of the total “qualified expenditures” incurred in connection with the state-certified production during the tax year. This credit may be refunded if the credit exceeds the taxpayer's tax liability, but may not be carried forward.

The combined total amount of credit allowed cannot exceed \$1 million for each state-certified production.

To receive the credits, the Department of Commerce must certify the production, and the company must make application to the Department of Revenue and pay an application fee.

Effective Date: Passage and approval  
Applicability Date: Applies to state-certified productions approved after the effective date, and to tax years beginning after December 31, 2004  
Termination Date: January 1, 2010

HB 667 Short Title: **Purchasing pools, tax credit for health insurance**  
Primary Sponsor: David Wanzenried

HB 667 creates a nonprofit legal entity known as the “small business health insurance pool.” The purpose of the pool is to provide eligible small employers and their employees with assistance in paying group health insurance premiums. (This program is administered primarily by the State Auditor's Office; however, the Department of Revenue is impacted in an ancillary manner through the tax credits provided for in the bill.)

Under HB 667, qualifying employers may receive assistance in paying for health insurance directly through “premium incentive payments” (to employers) or “premium assistance payments” (for employees), or indirectly through tax credits against individual income or corporation license taxes.

Only those employers who currently are providing a group health insurance plan and who register with the State Auditor's Office are eligible to receive the tax credit form of assistance. The bill provides that 40% of the available funding must be dedicated to tax credits for eligible small employers who currently sponsor a small group health plan. The amount of credit that can be claimed by each employer is

detailed in the bill. If the total credit amount claimed exceeds the taxpayer's tax liability, the excess must be refunded to the taxpayer.

Funding for the program comes from taxes on cigarettes that are deposited in the state special revenue account provided for at 53-6-1201, MCA. HB 667 specifies that any funds appropriated for the health insurance premiums assistance programs may not be expended until the Office of Budget and Program Planning has certified that \$25 million has been deposited in the account.

Effective Date: July 1, 2005  
Applicability Date: Applies to tax years beginning after December 31, 2005

HB 756 Short Title: **Encourage production and use of biodiesel**  
Primary Sponsor: Gail Gutsche

HB 756 provides for three new tax incentives addressing the production of biodiesel fuel.

The first incentive provides for a tax credit against individual or corporation license taxes equal to 15% of the cost of investments in qualifying depreciable property used to crush oilseed crops for the purpose of making biodiesel fuel. The total credit cannot exceed \$500,000.

The second incentive provides for a tax credit against individual or corporation license taxes equal to 15% of the cost of investments in qualifying depreciable property used in constructing and equipping a facility used for biodiesel production.

Neither credit is refundable and neither credit can be carried forward to subsequent tax years. The credit must be claimed in the tax year in which the facility either begins processing oilseed or begins production of biodiesel fuel. Both credits are subject to recapture should the facilities cease operations within 5 years of receiving the initial credit.

The third incentive, administered by the Department of Transportation, provides for a payment from the state general fund equal to 10¢ per gallon for annual *increases* in production of biodiesel fuel for which the tax has been paid under 15-70-343 (special fuel license tax).

Effective Date: July 1, 2005

HB 776 Short Title: **Revise law on taxation of biodiesel and provide incentives**

Primary Sponsor: Holly Raser

HB 776 provides for several tax incentives to blend biodiesel with diesel fuel. A *special fuel distributor* is entitled to claim a tax credit against individual income or corporation license taxes equal to 15% of the cost of installing depreciable storage and blending equipment used to blend biodiesel with petroleum diesel, up to a maximum credit of \$52,500.

The owner of a *motor fuel outlet* is entitled to claim a tax credit against individual income or corporation license taxes equal to 15% of the cost of installing depreciable storage and blending equipment used to blend biodiesel with petroleum diesel, up to a maximum credit of \$7,500.

Both credits must be claimed in the tax year in which the distributor or retailer begins blending biodiesel with petroleum diesel; neither credit is refundable, and neither credit may be carried forward.

In order to claim the credit, the biodiesel used in the blending process must be made entirely from Montana-produced ingredients; and at least 2% of the taxpayer's total diesel sales must be in the form of biodiesel by the end of the third year following the tax year in which the credit is claimed. Both credits are subject to recapture should the facilities cease operations within 5 years of receiving the initial credit.

A *licensed distributor* who pays the special fuel tax under 15-70-343, MCA on biodiesel is entitled to a refund equal to 2¢ a gallon on biodiesel sold during each previous calendar quarter; the *owner or operator of a motor fuel outlet* is entitled to a refund equal to 2¢ a gallon on biodiesel sold during each previous calendar quarter. *Both refunds are allowed only if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.* (This section of the bill is administered by the Department of Transportation.)

The above incentives are effective 30 days after the Director of the Department of Transportation certifies that:

- an ethanol plant is in operation and producing fuel in Montana; and,
- the net working capital in the restricted highway state special revenue account is at least \$20 million on June 30 following the date on which the first condition is complied with.

The above incentives terminate June 30 of the fourth year following passage and approval of the bill (June 30, 2009).

Beginning after January 1, 2006, the Department of Revenue is to report to the interim Revenue and Transportation Committee at least once a year the number and type of taxpayers claiming the credit, the total amount of credit claimed, and the cost associated with administering the credit.

Effective Date: Passage and approval  
Applicability Date: Applies to tax years beginning after December 31, 2004

SB 85      Short Title: **Income tax checkoff for renal dialysis**  
Primary Sponsor: Carolyn Squires

SB 85 provides for a new voluntary checkoff against individual income taxes to provide funds for programs that assist persons suffering from end-stage renal disease. The bill provides that this checkoff terminates on January 1 of the first year following the two (2) immediately preceding tax years in which the checkoff raises less than \$10,000 in each year.

Effective Date: October 1, 2005  
Applicability Date: Applies to tax years beginning after December 31, 2005

SB 133      Short Title: **Capital formation act for venture capital**  
Primary Sponsor: Jeff Mangan

SB 133, cited as the "Montana Equity Capital Investment Act," creates the Montana Equity Fund, and its associated subfund the Montana Evergreen Fund, in order to attract venture capital to the state. It also creates the Montana Capital Investment Board which is charged with selecting, certifying, and contracting with a Designated Investment Group (DIG). The DIG will organize, capitalize, and administer the Montana Equity Fund by contracting with investors who will provide the capital for the fund, and will make investments in start-up businesses and other ventures.

Contracts between the DIG and investors will provide for a specific rate of return of and return on investments made by the group. If the actual rate of return of and return on investment is less than the contractual rates, then investors become "certificate holders." These certificates entitle investors to tax credits against either individual



income taxes or corporation license taxes in an amount equal to the differential between the contractual and actual rates of return. Furthermore, these certificates can be sold to other individuals who may claim the tax credit.

However, Section 8 of the bill provides that the tax credits associated with investment returns cannot be claimed prior to July 1, 2010; consequently, there is likely to be no impact on the Department of Revenue from this bill for several years.

Effective Date: July 1, 2005

SB 213 Short Title: **Revise recycling laws**  
Primary Sponsor: Bob Story

SB 213 amends 15-32-603, MCA to extend the termination date for the tax credit for investment in property used to collect or process reclaimable materials, and the deduction in 15-32-610, MCA for the purchase of recyclable materials, from December 31, 2005 to December 31, 2010. The credit and the deduction may be claimed against individual income or corporation license taxes.

Effective Date: July 1, 2005

SB 340 Short Title: **Builder allowed tax credit for residential geothermal systems**  
Primary Sponsor: Jeff Essmann

Previously, a resident individual taxpayer who completed installation of a geothermal system in the taxpayer's principal dwelling was entitled to claim a tax credit against individual income taxes (up to \$1,500).

SB 340 amends 15-32-115, MCA to expand eligibility for this credit to persons constructing a new residence (the contractor), or to residences constructed by the taxpayer. SB 340 also allows the credit to be claimed against corporation license taxes, rather than just individual income taxes.

Effective Date: January 1, 2006  
Applicability Date: Applies to tax years beginning after December 31, 2005

## Natural Resource Taxes

HB 379 Short Title: **Fund Zortman-Landusky mine reclamation**  
Primary Sponsor: Jonathan Windy Boy

This bill created a permanent trust fund for perpetual water treatment at the abandoned Zortman-Landusky mine. The trust fund is financed by amending 75-10-743, MCA to provide for annual transfers of \$1.2 million from the orphan share account in the state special revenue fund to the trust fund, beginning in FY06. The transfers would cease once the Board of Investments determined that the principal and earnings of the trust fund would generate a trust fund balance of \$19.3 million by January 1, 2018.

Effective Date: July 1, 2005

HB 482 Short Title: **Revise allocation of funds to coal tax shared account**  
Primary Sponsor: Monica Lindeen

This bill amended 15-35-108, MCA to change the allocation of taxes collected under the coal severance tax. The amount deposited in the state general fund is decreased by 0.61%, from 27.4% to 26.79%. The amount allocated to the local impact account in the state special revenue fund is increased by 0.61%, from 7.75% to 8.36%. (However, coordinating language in HB 758 reduces the amount allocated to the local impact account from 8.36% to 5.46%. The difference, 2.9%, is allocated to the oil, gas, and coal natural resource account created by HB 758. Please refer to the discussion of HB 758 below.)

Effective Date: July 1, 2005

HB 535 Short Title: **Revise taxation of stripper wells**  
Primary Sponsor: Llew Jones

This bill amended 15-36-303 and 15-36-304, MCA to change the taxation on the working interest portion of the production of oil wells that produce less than 3 barrels per day. When the price of West Texas Intermediate crude oil is over \$38 per barrel, the tax rate on this oil is 6% rather than 12%, the rate previous to this legislation.

Effective Date: July 1, 2005

HB 700 Short Title: **Revise allocation and use of metal mines license tax**  
Primary Sponsor: Scott Mendenhall

This bill amended 15-37-117, MCA to revise the allocation and use of the metal mines license tax. The amount allocated to the state general fund is reduced from 58% to 57%. The amount allocated to the state special revenue fund for distribution to the counties is increased from 24% to 25%. Various other statutes are amended to clarify the allowable uses for the county portion.

Effective Date: July 1, 2005

HB 758 Short Title: **Oil, gas, and coal natural resource account fund**  
Primary Sponsor: Walter McNutt

This bill, which is coordinated with HB 482, created an oil, gas, and coal natural resource account in the state special revenue fund. The account consists of two separate parts: a coal part and an oil and gas part. The coal part is funded by allocating 2.9% of the coal severance tax collections to the fund. The coal part is appropriated to the coal board to fund local impact grants (See HB 2, page c14). The oil and gas part is funded by a tax that is a maximum of 0.08% of taxable oil and gas production value. The total of this tax and the Board of Oil and Gas Conservation tax cannot exceed 0.3% of taxable oil and gas production value. The oil and gas part is allocated to oil and gas counties in proportion to oil and gas production. Within the county the funds are distributed 1/3 to county government and 2/3 to incorporated cities and towns based on population.

Effective Date: July 1, 2005

Applicability: Oil & gas production occurring after June 30, 2005

SB 115 Short Title: **Equitable taxation of wind energy facilities**  
Primary Sponsor: Jon Tester

This bill created a new property tax class, Class 14, for wind generation facilities. Class 14 property is taxed at 3% of its market value. The bill also allows local government entities to charge an impact fee during the first three years after start of construction of wind generation facilities for affected local government entities and school districts. The impact fee cannot exceed 0.5% of the total cost of construction. Class 14 does not include wind generation facilities

used for noncommercial purposes or agricultural purposes. Class 14 does not include facilities that meet the requirements for the five-year tax exemption under 15-6-225, MCA (renewable energy source, less than one megawatt generation capacity).

Effective Date: Passage and approval (May 2, 2005)  
Applicability: Retroactive to tax years beginning after December 31, 2004 and for wind generation facilities constructed after December 31, 2004

SB 212 Short Title: **Revise allocation and distribution of federal mineral leasing funds**

Primary Sponsor: John Esp

This bill amended 17-3-240, MCA to provide that 25% of federal mineral royalties paid to the state be deposited in the mineral impact account for distribution to eligible counties, and the remaining 75% is deposited in the state general fund. Under prior law, the entire amount was first deposited in the state general fund. As part of fiscal year end closing, 25% was subsequently transferred to the mineral impact account.

Effective Date: July 1, 2005

SB 276 Short Title: **Revise taxation of bentonite**

Primary Sponsor: Keith Bales

This bill amended 15-6-131, 15-6-208, 15-23-101, 15-23-501, and 15-23-502, MCA to exempt bentonite production from property taxation under the net proceeds approach. This bill imposes a declining block rate tax per ton on annual bentonite production as follows:

First 20,000 tons	Exempt from taxation
Next 80,000 tons	\$1.56 per ton
Next 150,000 tons	\$1.50 per ton
Next 250,000 tons	\$1.40 per ton
Next 500,000 tons	\$1.25 per ton
All subsequent tons	\$1.00 per ton

Beginning in 2009 the tax rates will be adjusted annually for inflation. Initial distribution of the production tax will approximate the distribution to state, county, school, and other local taxing entities that would have occurred if the bentonite were still taxed based on

net proceeds. The exception is that the state general fund will receive approximately half as much as under net proceeds taxation. Over a ten-year phase-in period, the county and local portion will be shifted to being allocated to the counties based on the relative amount of tax collected in each county. The counties will be allowed to count one-third of the gross value of bentonite production as taxable value for purposes of county classification, school district debt limits, and local government debt and bond limits.

The exemption from net proceeds taxation is retroactively applicable to production occurring after December 31, 2003. The new production tax is retroactively applicable to production beginning after December 31, 2004. Thus, the production occurring during calendar year 2004 is not subject to any taxation.

Effective Date: Passage and approval (April 28, 2005)  
Applicability: See discussion above

SB 480 Short Title: **Eliminate coal severance tax in-state generation incentive rate**  
Primary Sponsor: Brent R. Cromley

This bill amended 15-35-103, MCA to eliminate the coal severance tax in-state generation incentive rate. Under prior law the coal severance tax rate would be reduced by two-thirds for coal that was used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001.

In addition, in order to qualify the electrical producer must have agreed to offer, for use within the state, the first one-half of the amount of power produced to Montana customers and distribution services providers at a cost set by the Public Service Commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment.

Effective Date: Passage and approval (April 25, 2005)

## Liquor and Tobacco Taxes

HB 169 Short Title: **Revise statues related to tobacco master settlement agreement**

Primary Sponsor: Dave McAlpin

HB 169 does the following:

- Expands the definition in 16-11-404, MCA of “wholesaler” to include distributors of tobacco products other than cigarettes who are required to remit the tobacco tax imposed under 16-11-202, MCA.
- Requires any person who purchases tobacco products directly from non-participating manufacturers and intends to sell the product in Montana to report these sales.
- Clarifies the reimbursement of costs incurred on successful litigation.
- Allows the Department of Revenue authority to revoke or suspend the license of anyone who knowingly sells unlisted product to a wholesaler or retailer.
- Provides for the deposit of any penalties and fees collected into the major litigation account administered by the Department of Justice.

Effective Dates: April 21, 2005 for Sections 1, 3-7, and 10  
July 1, 2005 for Sections 2, 8, 9, and 11

HB 348 Short Title: **Revise youth access to alcohol and provide for keg registration**

Primary Sponsor: Rosalie Buzzas

HB 348 requires retailers to register all sales of beer kegs to consumers by means of an attached identification tag. The identification tag, developed and distributed by the Department of Revenue, provides information on the purchaser of the keg. The retailer must also maintain detailed records of all keg sales. Under this law, removing an identification tag or failing to register a keg is a misdemeanor punishable with a maximum penalty of \$500.

Effective Date: October 1, 2005

HB 502 Short Title: **Eliminate background check for off-premises beer and wine licenses**

Primary Sponsor: Brady Wiseman

HB 502 removes the requirement that the Department of Revenue conduct a background check on any applicant for an off-premises beer and wine license.

HB 502 also amends section 16-4-414, MCA clarifying when liquor licensees are required to submit copies of their fingerprints as a prerequisite to licensure and who among the applicants, associates, and employees must be fingerprinted.

Effective Date: Passage and approval

HB 517 Short Title: **Provide for issuance of a Montana distillery license**

Primary Sponsor: Brady Wiseman

HB 517 provides for a Montana distillery license. Under the law, a Montana distillery is allowed to sell product directly to the State of Montana warehouse. Distillers may also provide, with or without charge, two ounces of its product to consumers visiting the distillery; and sell product for off-premise consumption to the public provided the selling price meets all State of Montana pricing requirements.

HB 517 also provides for a reduced tax rate of 2% of the retail selling price for the distillery's product when annual production is less than 50,000 proof gallons of liquor. Producers that sell more than 50,000 but no more than 200,000 gallons are subject to an 8.6% tax rate, and those selling more than 200,000 gallons must pay a tax of 10% of the selling price of the liquor.

Effective Date: July 1, 2005

HB 687 Short Title: **Revise laws governing tobacco**

Primary Sponsor: Scott Mendenhall

HB 687 establishes a civil penalty for a wholesaler, sub-jobber, tobacco product vendor, or retailer who fails to maintain adequate transaction records. The penalty is a civil penalty of not less than \$1,000 and not more than \$10,000. Depending on the court of jurisdiction, some or all of the revenue generated by these fines may be deposited in the state general fund.

The law also establishes civil penalties for common carriers that violate the provisions of the act. Violations by a common carrier would be tried in state district court and any revenue from a civil action against the carrier would be deposited in the state general fund.

Under the new law, a wholesaler may withhold 1.5% of the tax collected on tobacco products, other than cigarettes, to defray the costs of collection and other administrative expenses.

The law directs that taxes on tobacco products (other than cigarettes) be deposited 50% to the state general fund and 50% to the state special revenue account for health and Medicaid initiatives outlined in 53-6-1201, MCA.

Effective Date: 90 days after passage and approval  
(July 27, 2005)

SB 243 Short Title: **Eliminate restriction on beer wholesaler subwarehouses**

Primary Sponsor: Vicki Cocchiarella

SB 243 allows beer wholesalers to have more than one licensed sub-warehouse within the state. The law provides that any beer wholesaler that is also a licensed table wine distributor, may store wine in any warehouse they have authority as a beer wholesaler to operate.

Effective Date: Passage and approval

SB 325 Short Title: **Revise material beer wholesalers may provide to retailers**

Primary Sponsor: Kelly Gebhardt

SB 325 revises the laws pertaining to interior advertising relating to beer importers, wholesalers, and retailers.

The bill places a limit of \$300 in value on functional material (napkins, coaster, glasses) that can be given, furnished, or loaned from a brewer, beer importer, or beer wholesaler to a retailer during one calendar year. The \$300 limit matches the federal limitation.



Other types of permanent or temporary advertising (non-electric clocks, lamps, mirrors, banners, flags and pennants) may be provided without consideration to number or cost.

Under prior law, the limit was \$50 for all advertising materials or novelties.

The new law also places a statutory restriction of six (6) signs, lamps, and lighted clocks per brand of beer sold that a wholesaler may provide a retailer in a calendar year, regardless of size. The prior law limit was two (2) illuminated signs of not more than 630 square inches in size.

The new law sets a limit of three (3) times not to exceed 72 hours that a beer wholesaler may furnish portable equipment to a retailer's regular premises. There is no limit on the number of times or duration a wholesaler may supply equipment for an event catered by the retailer that is away from the retailer's normal place of business.

Effective Date: October 1, 2005

SB 497 Short Title: **Restrict liquor license locations if within 5 miles of city upon an annexation**

Primary Sponsor: Joseph Tropila

SB 497 prevents a liquor license from transferring location in a city quota area for five (5) years if it has been changed from a county quota license to a city quota license as the result of an annexation by the city.

Effective Date: Passage and approval

## Miscellaneous Taxes

HB 223      Short Title: **Repeal foreign capital depository act**  
Primary Sponsor: Larry Jent

This bill repealed the foreign capital depository act (15-31-Part 8, 25-9-Part 8, Title 32 Chapter 8, 70-9 Part 7, MCA) and amended various statutes to remove references to foreign capital depositories. This act by the 1997 Legislature was designed to encourage foreign corporations to deposit capital in Montana financial institutions. These depositories paid an annual fee of 0.75% of the value of the deposits and were exempt from the corporation license tax in Montana. The idea was to give the state of Montana a “Swiss banking system” industry.

Effective Date:            October 1, 2005

HB 749      Short Title: **Revise nursing home bed tax**  
Primary Sponsor: Rick Ripley

HB 749 amends 15-60-102, MCA to increase the nursing facility utilization fee from \$5.30 to \$7.05 in fiscal year 2006; and from \$5.30 to \$8.30 in fiscal year 2007. The increase in revenue from the increase in the utilization fee is allocated to the Department of Health and Human Services to fund increases in Medicaid payments to nursing facilities.

Effective Date:            July 1, 2005

SB 82        Short Title: **Revise definition and utilization fee for ICF/IDD**  
Primary Sponsor: John Cobb

SB 82 amends 15-67-101, MCA to add facilities for the mentally retarded to the definition of intermediate care facility. Prior law included only facilities for the developmentally disabled in the definition. 15-67-101, MCA is amended to raise the quarterly fee assessed to intermediate care facilities from 5% of gross revenues to 6% of gross revenues.

Effective Date:            Passage and approval (April 25, 2005)  
Applicability:            Retroactive to tax years beginning after  
December 31, 2004

SB 120      Short Title: **Extend hospital tax on inpatient bed days**  
Primary Sponsor: Bob Keenan

SB 120 amends 15-66-101, 15-66-102, and 15-66-201, MCA to change the termination date for the utilization fee on hospitals for inpatient bed days from June 30, 2005 to June 30, 2007. 15-66-101, MCA is amended to add critical access hospital to the definition of hospital. 15-66-102, MCA is amended to increase the utilization fee per inpatient bed day from \$19.43 to \$29.75 for the second half of calendar year 2005, and \$27.70 for calendar year 2006. For succeeding calendar years, the Department of Revenue is to determine the amount of the fee based on an estimate of the unpaid Medicaid hospital costs, total inpatient days, and the federal medical assistance percentages, an estimate of any federal limit on federal financial participation for hospital services, and an estimate of federal disproportionate share funds not matched by state general funds. 15-66-201, MCA is amended to extend the timeline reporting requirements for hospitals and eliminate the reporting requirement that the Department of Public Health and Human Services provide the Department of Revenue with a list of licensed hospitals operating within the state. New Section 5 of the bill provides that, if a court determines that the state expenditure limit in 77-8-106, MCA has been exceeded, collection of the utilization fee and expenditure of the related revenues must cease.

Effective Date:            Passage and approval (April 25, 2005)  
Termination Date:        June 30, 2007

SB 323      Short Title: **Carryforward of contractor's gross receipts tax –  
corporate income**  
Primary Sponsor: Jerry W. Black

SB 323 amends 15-50-207, MCA to allow the corporation license tax credit for the contractor's gross receipts tax to be carried forward for five years.

Effective Date:            Passage and approval (April 28, 2005)  
Applicability:            Retroactive to tax years beginning after  
December 31, 2004

## DOR-Sponsored Legislation

HB 54 Short Title: **Credit card payment of taxes administered by the Department of Revenue**

Primary Sponsor: Veronica Small-Eastman

This bill amended 15-1-231, MCA to provide that taxpayers may make payment to the Department of Revenue for any tax that it administers, including penalties, interest, and fees, by credit card, debit card, or any other commercially acceptable means.

Effective Date: October 1, 2005

HB 84 Short Title: **Clarify calculation of business equipment tax trigger**

Primary Sponsor: Christine Kaufmann

This bill, amending 15-6-138, MCA clarified calculation of the Class 8 business equipment "trigger" by specifying that if the fall SA07N series of wages from BEA is not published or available at the time the calculation is required to be done, that the calculation be done using the most recent release of this data.

*This bill is rendered moot by the passage of SB 48, which eliminated the trigger calculation entirely.*

Effective Date: Passage and approval (February 23, 2005)  
Applicability Date: Applies retroactively to calculations of inflation-adjusted Montana wage and salary income growth made prior to the effective date of the act

HB 85 Short Title: **Eliminate outdated reports from Department of Revenue to the legislature**

Primary Sponsor: Christine Kaufmann

This bill amends 15-6-218, MCA and 15-30-1114, MCA to eliminate the requirements that the Department of Revenue provide interim reports to the Montana Legislature regarding the taxation of intangible personal property of centrally assessed companies, and pass-through entities.

Effective Date: Passage and approval

HB 86      Short Title: **Revise distribution procedure for Taylor grazing act revenue**

Primary Sponsor: Christine Kaufmann

Under prior law, the state treasurer was required to send *all* funds received from the Taylor Grazing Act to county treasurers, who were required to deposit 50% in the county general fund, and remit 50% back to the state treasurer for deposit in the state general fund. HB 86 amends 17-3-222, MCA to provide that the state treasurer may make the 50% allocation to the state general fund directly.

Effective Date:            July 1, 2005

HB 158      Short Title: **Revise and clarify income tax withholding**

Primary Sponsor: Joe McKenney

Among other things, HB 158 is primarily legislation designed to clean up and clarify withholding statutes in the wake of transferring unemployment insurance tax functions back to the Department of Labor and Industry. The bill amends definitions to remove redundancies; repeals certain references to unemployment insurance tax in the appeals process, and references to withholding tax in unemployment insurance tax statutes; and repeals sections of law no longer needed. In addition, HB 158 also:

- clarifies the treatment of disregarded entities and their owners with respect to withholding on their employees;
- clarifies that employers must furnish annual withholding statements to their employees and the Department;
- changes the schedule for remittance of withholding tax back to that in effect prior to the merger of withholding and unemployment insurance tax in 1997;
- provides that employers remitting withholding taxes late are subject to the uniform penalty and interest statutes applicable to all taxes administered by the Department of Revenue; and,
- provides that employers may remit withholding tax electronically.

Effective Date:            Passage and approval

Applicability Date:      Applies retroactively to wages paid after ` December 31, 2004

HB 171      Short Title: **Tax filing and payment relief for active duty military**  
Primary Sponsor: Jill Cohenour

HB 171 amends 15-30-313, MCA to conform state law with federal law by referencing the Servicemembers Civil Relief Act, which replaced the Soldiers' and Sailors' Relief Act of 1940; and providing for the same extension of time to file a Montana individual income tax return as provided for federal filing purposes for persons or their spouses serving in a combat zone or participating in a contingency operation.

Under this bill, a tax return of qualifying military personnel (and their spouses) is due on or before 180 days after the time of discharge from service.

Effective Date:            Passage and approval  
Applicability Date:      Applies retroactively to tax years beginning  
                                         after December 31, 2003

HB 193      Short Title: **Recovery of tax benefit for charitable endowment  
                                         recovered by donor**  
Primary Sponsor: Karl Waitschies

Under current law, taxpayers are allowed a tax credit and/or a deduction for contributions to a charitable endowment. HB 193 provides for a recapture of this credit/deduction by requiring taxpayers, for the tax year during which a previously donated gift is recovered, to report as income any amount of deduction previously taken that acted to reduce tax liability, and increase tax liability by any amount of credit previously received.

Effective Date:            Passage and approval  
Applicability Date:      Applies retroactively to tax years beginning  
                                         after December 31, 2004

HB 194      Short Title: **Clarify distribution of oil and gas production taxes**  
Primary Sponsor: Gary Matthews

HB 194 amends 15-36-311, MCA to remove outdated language and amends 15-36-331, MCA to remove language that references oil and natural gas distribution formulas that should have been removed when the distribution was modified by HB 748 of the 2003 Legislative Session. These amendments did not change the Department of

Revenue's current approach to distributing oil and gas revenues, but simply clarified the intent of the Legislature in prior legislative sessions.

Effective Date: Passage and approval  
Applicability Date: Applies retroactively to oil and natural gas production occurring in tax years beginning after December 31, 2004

SB 74 Short Title: **Clarify eligibility of land for valuation as nonqualified agricultural land**  
Primary Sponsor: Bob Story

SB 74 resolves an inequity in prior law whereby similarly situated lands were being provided with widely disparate treatment for tax purposes. Previously, parcels of land 160 acres or greater in size with covenants or restrictions prohibiting agricultural use were taxed at 3.3% of market value. Parcels of land that are 20 acres to 159 acres in size (generally referred to as *nonqualified agricultural land*), and also having covenants or restrictions prohibiting agricultural use, were taxed at 23.1% of the productivity value of average grazing land. This resulted in a much lower tax bill per acre for these properties than parcels 160 acres or greater.

SB 74 amends 15-7-202, MCA to provide that no parcels of land may be taxed as agricultural land or nonqualified agricultural land if there are covenants or restrictions prohibiting agricultural use, thereby equalizing the tax treatment of similar lands subject to similar restrictions.

Effective Date: October 1, 2005  
Applicability Date: Applies to property tax years beginning after December 31, 2005

SB 75 Short Title: **Property tax appeal procedure if county board fails to hear in timely manner**  
Primary Sponsor: Dan Harrington

Prior to SB 75, when the County Tax Appeal Board (CTAB) failed to hear a timely application for a property value reduction or reclassification the taxpayer's application was automatically granted, with no provision for notification to or appeal by the state or municipal corporations. SB 75 provides that in these cases, the CTAB must notify the Department of Revenue, the State Tax Appeal Board

(STAB) and any affected municipal corporation of the failure to act, and allows the Department of Revenue or any municipal corporation to appeal the value reduction or reclassification to STAB.

Effective Date: October 1, 2005  
Applicability Date: Applies retroactively to oil and natural gas production occurring in tax years beginning after December 31, 2004

SB 87 Short Title: **Clarify appeal and payment of protested taxes for centrally assessed property**  
Primary Sponsor: Jim Elliott

Under current law, taxpayers protesting any portion of their property tax or fee must provide the county treasurer with the amount of tax being protested and the grounds upon which the protest is being made. SB 87 provides that in the case of protested property taxes or fees subject to central assessment the taxpayer must also notify the Department of Revenue the grounds for the protest, and the amount of protested payments for each county in which a protested payment is made. SB 87 also provides that the department, by November 1 of each year, is required to mail a notice stating the above requirements to centrally assessed property owners who have filed a timely appeal.

SB 87 also clarifies that any taxpayer, including a person appealing a property tax or fee on property this is subject to central assessment, must pay the tax or fee under protest when due in order to receive a refund.

SB 87 also provides that 50% of any protested taxes of centrally assessed property remitted to the state for deposit in state accounts be deposited into a *centrally assessed property tax state special revenue account*, from which the state will pay the state's share of any judgments or settlements related to and favoring centrally assessed property tax appeals. (The bill also provides for how refunds of centrally assessed property taxes will be made in the event this account does not hold sufficient funds to make the full payments required.)

The bill further provides that certain protested taxes already paid on centrally assessed properties be transferred from the state general fund to this new account.

Effective Date: Passage and approval (April 28, 2005)



SB 92

Short Title: **Clarify valuation of condominiums for tax purposes**

Primary Sponsor: Ken Toole

SB 92 amends 15-8-111, MCA by adding language that clarifies how the market value of condominiums is to be measured and established for property tax purposes. Depending on the appropriate and relevant information available, the Department of Revenue may value condominiums using the comparable sales method, the capitalization-of-net-income method, or the construction cost method.

This bill clarifies and resolves an inconsistency in statute. 15-8-511, MCA provides that the percentage of undivided interest stated in a condominium unit declaration (a document produced by the condominium developer) is the figure that must be used when assessing common elements. However, the comparable sales and income approaches inherently incorporate the market value of the common elements in either the sales price or the capitalization of net income computation. New language added by SB 92 resolves this inconsistency by allowing the comparable sales and income approaches to be used, without requiring reference to the percentage of undivided interest stated in a condominium unit declaration.

The various approaches to appraising condominiums provided for in the bill reflect the department's current practices. Consequently, the bill will not change the determination of future condominium values.

Effective Date: Passage and approval (April 25, 2005)

Applicability Date: Applies retroactively to property tax years beginning after December 31, 2004

# Revenue Administration and County Collections Report

## REVENUE ADMINISTRATION LEGISLATION

HB 116 Short Title: **Require agency to report intended changes in budgets and program transfers**

Primary Sponsor: Debby Barrett

HB 116 provides for additional budgetary reporting responsibilities for state agencies. In particular, 17-7-138, MCA is amended to require that an explanation of any significant change in agency or program scope must be submitted on a regular basis to the interim committee that has program evaluation and monitoring functions for the agency.

17-7-139, MCA is amended to provide that an explanation of any significant transfer of appropriations between programs within each fund type also must be submitted on a regular basis to the same interim committee.

Effective Date: July 1, 2005

HB 167 Short Title: **Revise frequency of delivery of business list to Department of Revenue**

Primary Sponsor: Gary MacLaren

HB 167 directs the office of the Secretary of State to provide the Department of Revenue with a list of all new corporations, limited partnerships, limited liability companies, and limited liability partnerships, foreign and domestic, on or before the 15<sup>th</sup> day of each month. Previously, this list was required just once annually on or before December 31.

Effective Date: October 1, 2005

HB 295 Short Title: **Prohibit expiration of gift cards and certificates**

Primary Sponsor: Kathleen Galvin-Halcro

HB 295 amends 30-14-102, MCA to provide definitions for “gift certificate” and “possessor.” A new section of law provides that a gift certificate is valid until redemption and does not terminate, and that a gift certificate is considered trust property of the possessor if the issuer or seller declares bankruptcy after issuing or selling the certificate. This section also clarifies that the value represented by

the gift certificate belongs to the possessor and not to the issuer or seller.

“Possessor” is defined as a natural person who has control over a gift certificate.

Effective Date: October 1, 2005

HB 592 Short Title: **Standardize penalty and interest calculations for taxes**

Primary Sponsor: Karl Waitschies

HB 592 consolidates penalties and interest rates and amounts assessed for various tax types, facilitates programming of the new IRIS system by simplifying the calculation of when penalties begin to accrue, and lowers interest and late pay penalty rates for certain taxpayers.

Under HB 592, the penalty for purposely filing late is changed from the lesser of 25% of the taxes due or \$200, to an amount not less than \$1,000 and not more than \$10,000. Additional amendments provide for the immediate assessment of the late payment penalty from the original due date instead of after 60 days.

Beginning with tax year 2007, the late pay penalty rate is lowered from 1.5% to 1.2% for unpaid individual income taxes, corporate license taxes, combined oil and gas taxes, and coal severance taxes. The maximum amount that can be assessed is also lowered from 18% to 12% of the tax due for non-trust taxes and from 18% to 15% for trust taxes.

Starting in tax year 2007, the interest rate on individual income taxes not paid when due is reduced from 12% to the greater of the rate reported in Section 6621 of the Internal Revenue Code for the fourth quarter of the preceding year, or 8%.

Effective Dates: The penalty and interest provisions of the bill in Section 3 are effective January 1, 2007 and apply to tax periods and liabilities beginning after December 31, 2006; other sections are effective and apply beginning July 1, 2005

SB 70 Short Title: **Revise notice requirements in action to quiet title to tax deed**  
Primary Sponsor: Vicki Cocchiarella

SB 70 clarifies the notice requirements in 15-18-411 in actions to quiet title to a tax deed. Previously, the order to quiet title was required to be served personally upon each person shown in the affidavit claiming to be a true owner and “...*who, at that time, was know to be in the state of Montana.*” The revised language requires the order to be served upon each person “...*whose name and address are reasonable ascertainable.*”

Effective Date: October 1, 2005

SB 442 Short Title: **Repeal POINTS replacement fee**  
Primary Sponsor: Mike Cooney

SB 271, enacted by the 2003 Legislature, authorized the Department of Revenue to borrow \$17 million from the Board of Investments to replace the POINTS computer system. To pay for the loan, the department was authorized to deduct an administrative fee from collections of certain taxes.

SB 442 repeals the administrative fee contingent on companion legislation being passed that provides for full repayment of the loan for the POINTS replacement system. Full repayment of the loan was provided for in HB 745.

Effective Date: July 1, 2005

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**COUNTY COLLECTIONS REPORT LEGISLATION**

HB 205 Short Title: **Require bond forfeitures in felonies to be deposited in general fund**  
Primary Sponsor: John Parker

Prior to HB 205, when an order of forfeiture of bail was not discharged, the court of jurisdiction was required to pay any money posted as bail to the treasury of the city or county where the money was posted.

HB 205 amends 46-9-511, MCA to require that when an order of forfeiture is not discharged in a *felony case*, the forfeited bail shall be

paid to the Department of Revenue for deposit in the state general fund.

The county collection report has an existing mechanism for collecting fines and forfeitures from courts so no changes to the county collection report will be needed.

Effective Date: July 1, 2005

HB 301 Short Title: **Revise use of Lewis & Clark license plate funds**

Primary Sponsor: Kathleen Galvin-Halcro

Currently, revenue from donations paid for the Lewis and Clark Bicentennial specialty license plate is deposited into a state special revenue account to the credit of the Lewis and Clark Bicentennial Commission.

HB 301 creates two new Lewis and Clark bicentennial state special revenue accounts: one for the Department of Commerce and one for the Montana Historical Society. Beginning January 1, 2007, three-quarters (\$15) of the donation for the Lewis and Clark Bicentennial specialty license plate will be deposited in the Department of Commerce account, and one-quarter (\$5) will be deposited in the Montana Historical Society account, as successors to the Lewis and Clark Bicentennial Commission. Funding in the accounts will be used to support projects related to the Lewis and Clark expedition.

Effective Date: Sections providing for the above discussed changes are effective December 31, 2006; other sections making general changes are effective July 1, 2005

HB 476 Short Title: **Increase marriage license fees for funding domestic & sexual violence victims' services**

**AND** Primary Sponsor: Dave McAlpin

SB 67 Short Title: **Increase fees for marriage license and declaration of marriage without solemnization**

Primary Sponsor: Brent Cromley

HB 476 creates a new domestic violence intervention program (Montana Board of Crime Control), and a new domestic violence intervention state special revenue account, from which costs of the program will be paid.

HB 476 also amends several sections of law to increase the marriage license fee and the fee for filing a declaration of marriage without solemnization from \$30 to \$43, with the \$13 increase in the fee deposited into the domestic violence intervention special revenue account.

Coordination instructions contained in HB 476 require that upon the passage of both HB 476 and SB 67 the fee for a marriage license and for filing a declaration of marriage without solemnization increase from \$30 to \$53. The coordination language further amends 25-1-204(7), MCA so that \$13 of the fee increase goes to the domestic violence intervention program and the remaining \$10 increase goes to the county district court fund.

Effective Date: July 1, 2005

HB 536 Short Title: **Generally revise court automation surcharge**  
Primary Sponsor: Tim Callahan

HB 536 amends 3-1-317, MCA to: 1) remove the termination date of the \$10 surcharge for court information technology, and 2) require the surcharge be deposited in the state general fund instead of a state special revenue account.

Effective Date: June 28, 2005

SB 98 Short Title: **Montana land information act**  
Primary Sponsor: Joe Tropila

SB 98 may be cited as the "Montana Land Information Act". Among other things, SB 98 created a new state special revenue account called the Montana land information account. To provide funding for the account, 7-4-2637, MCA was amended to increase certain document recording fees by \$1. Of this increase, 25¢ is deposited in the county land information account provided for in the bill; and 75¢ is forwarded by county treasurers to the Department of Revenue monthly for deposit in the new state special revenue account on the county collections report.

Effective Date: July 1, 2005

SB 406      Short Title: **Fund civil legal assistance for indigent victims of domestic violence**  
Primary Sponsor: Jim Shockley

This bill amends 25-1-201, MCA to increase the fee for filing a petition for dissolution of marriage from \$160 to \$170, and allocates the additional \$10 to the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

Effective Date:            October 1, 2005

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