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Revenue and Transportation Interim Committee

61st Montana Legislature

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April 19, 2010

TO: Revenue and Transportation Committee

FROM: Jeff Martin, Legislative Research Analyst

SUBJECT: Proposed Bill Draft Requests to Clarify, Simplify, or Repeal Certain Tax Provisions and to Clarify a Liquor Law Provision

The proposed 2009-2010 work plan of the Revenue and Transportation Interim Committee included two items regarding Committee consideration of clarifying existing law. The work plan specifically referenced the possibility of simplifying the local government entitlement share payment under 15-1-121, MCA, in line with amendments made to that section in legislation that would have revised the property taxation of business equipment.¹ The work plan also indicated that Committee staff would identify other sections of law that could be reviewed by the Committee for legislative action (See p. 8 of the Work Plan).

The purpose of this memo is to discuss certain provisions under Title 15 (taxation), Title 16 (liquor laws), and Title 90 (planning, research, and development) that could be clarified, simplified, or eliminated by legislation. The committee may want to consider requesting bill drafts to deal with the following:

- repeal inoperative business equipment tax reimbursement to local taxing jurisdictions (15-1-112, MCA);
- simplify entitlement share payment to local governments (15-1-121, MCA);
- correct erroneous tax rate related to extended property tax assistance program (15-6-193, MCA);
- revise withholding tax rate for lottery winnings (15-30-2522, MCA);
- clarify provision related to conversion of Department of Revenue employee-operated liquor stores to agency stores (16-2-203, MCA); and

¹See "Proposed 2009-2010 Interim Work Plan of the Revenue and Transportation Interim Committee", p. 7. The work plan is available at leg.mt.gov/rtic -- click on "Full Meeting Schedule" and then on "July 1, 2009".

- repeal the Montana Capital Company Act (Title 90, chapter 8, MCA);

Repeal Inoperative Business Equipment Tax Reimbursement to Local Taxing Jurisdictions (15-1-112, MCA)

Senate Bill No. 417 (Chapter 570, Laws 1995) reduced the tax rate on class eight business equipment from 9% to 6% of market value over a 4-year period. The legislation also provided a reimbursement to local governments to offset the revenue loss from the tax rate reductions. The reimbursement amounts were phased out beginning in tax year 1999 by increments of 10 percentage points annually. The last reimbursement was made in tax year 2007. Because the reimbursement is no longer operative, the Committee may want to request a bill draft to repeal the section.

Simplify Entitlement Share Payment to Local Governments (15-1-121, MCA)

House Bill No. 124 (Chapter 574, Laws 2001) revised the laws governing the collection and allocation of state and local government revenue. The legislation provided a system for the collection of a variety of taxes, fees, and other revenue and for an entitlement share payment to local governments for their share of the revenue. The entitlement share payment included the reimbursement of property tax revenue from prior legislation associated with property tax rate reductions on business equipment, telecommunications property, and electrical generation facilities and with changes in the taxation of metal mines and oil and natural gas production.

Senate Bill No. 146 (Chapter 449, Laws 2005) established a statewide public defender system to provide services in state, county, and city courts. The legislation revised the entitlement share payment to local governments to compensate the state for local government's share of the costs of the statewide public defender system.

The purpose of the legislation would be to simplify 15-1-121, MCA, by:

- eliminating the reference to the numerous revenue sources included in the entitlement share payment;
- basing the calculation of the entitlement share payment on the prior year fiscal year payment;
- eliminating the reference to the reduction in entitlement payments to counties and cities for public defender costs;
- updating the list of tax increment finance districts eligible for entitlement share payments (i.e., related to dissolved tax increment financing districts);
- providing for the recalculation of the entitlement share payment for legislative enactments that reimburse revenue under the provisions of 15-1-121, MCA.

Correct Erroneous Tax Rate Related to Extended Property Tax Assistance Program (15-6-

193, MCA)

House Bill No. 658 (Chapter 483, Laws 2009) mitigated the effects of property reappraisal of agricultural land, residential and commercial property, and forest lands. The legislation revised the extended property tax assistance program. Rep. Dick Barrett discovered an erroneous tax rate applied to residential property for tax year 2013. Legislation is required to correct the tax rate.

Revise Withholding Tax Rate for Lottery Winnings (15-30-2522, MCA)

Senate Bill No. 428 (Chapter 488, Laws 1993) required that the state lottery commissioner withhold from payments of lottery winnings 10% of the payment. The withholding rate applies to lottery proceeds in excess of \$5,000. In 2003, Senate Bill No. 407 (Chapter 544, Laws 2003), among other things, revised income tax brackets and reduced the top marginal tax from 11% to 6.9%. The legislation did not revise the withholding rate for lottery winnings.

The Revenue and Transportation Interim Committee may want to request a bill draft to reduce the withholding tax rate on lottery winnings from 10% to 6.9%, or a different tax rate.

Clarify Provision Related to Conversion of Department of Revenue Employee-Operated Liquor Stores to Agency Stores (16-2-203, MCA)

House Bill No. 574 (Chapter 530, Laws 1995) provided for the conversion of employee-operated liquor stores to agency liquor stores. The legislation did not amend 16-2-203, MCA. That section provides:

16-2-203. Department sales to licensees. The department may sell through its stores to licensees licensed under this code all kinds of liquor and table wine at the posted price thereof in the store in which the liquor and table wine are sold. All sales shall be upon a cash basis.

The language related to Department of Revenue sales of liquor and wine through its stores does not apply and could be eliminated. The provision that "[a]ll sales shall be on a cash basis" should be retained or incorporated in a different statutory section. Section 16-2-203, MCA, came to the attention of staff of Legislative Services Division from a dispute between an agency liquor store owner and the Department of Revenue. Revising this section would not affect the resolution of that dispute.

Repeal the Montana Capital Company Act (Title 90, chapter 8, MCA)

The Montana Capital Company Act was enacted in 1983 (Chapter 554, Laws 1983). The purpose of the act was to combat unemployment and out-migration by encouraging "the formation of venture and equity capital in Montana for use in diversifying, strengthening, and stabilizing the Montana economy by increasing Montana employment and business opportunities . . ."

Title 90, chapter 8, part 1, MCA, contains the general provisions of the act (purpose, definitions, rulemaking); part 2 provides for the tax credit for qualified investments, and part 3 deals with the regulation of capital companies. The act is administered by the Montana Department of Commerce.

Individual and corporate taxpayers were allowed a credit against individual income taxes or corporation license taxes for investments in a certified Montana capital company or qualified small business investment company. The credit was limited to 50% of an investment in a capital company up to \$150,000 for each taxpayer and an additional \$250,000 for a qualified investment in a Montana small business investment capital company. To claim the credit, the taxpayer had to have made the investment before July 1, 1995, but the credit could be carried back for 3 years and carried forward for up to 15 years.

In tax year 2007, the amount of the credit claimed under the individual income tax was \$1,847 and total amount claimed under the corporation license tax by 10 corporations was \$57,363.

Because the carryover period of the credit will have expired, the Committee may want to request a bill draft to repeal the Montana Capital Company Act.

Bill Draft Requests

Any bill draft requested by the committee on the areas covered by this memo would be prepared for committee discussion and public comment at the July 9-10, 2010, committee meeting.

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