

HOUSE BILL NO. 160
INTRODUCED BY DEBRUYCKER

IN THE HOUSE

JANUARY 13, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 21, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 22, 1993	PRINTING REPORT.
JANUARY 23, 1993	SECOND READING, DO PASS.
JANUARY 25, 1993	ENGROSSING REPORT.
JANUARY 26, 1993	THIRD READING, PASSED. AYES, 95; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 15, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 16, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 17, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 160
 2 INTRODUCED BY _____
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT
 5 OF PROPERTY TAXES BY ANY DEPARTMENT OR AGENCY OF THE UNITED
 6 STATES WHEN THE DEPARTMENT OR AGENCY ACQUIRES INTEREST IN
 7 THE PROPERTY THROUGH FORECLOSURE; ALLOWING A COURT TO DIRECT
 8 THE PAYMENT OF PROPERTY TAXES AT THE TIME OF FORECLOSURE;
 9 AMENDING SECTIONS 15-6-201, 15-24-1103, AND 71-1-222, MCA;
 10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
 11 APPLICABILITY DATE."
 12

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

14 **Section 1.** Section 15-6-201, MCA, is amended to read:

15 "15-6-201. Exempt categories. (1) The following
 16 categories of property are exempt from taxation:

17 (a) the property of:

18 (i) the United States, ~~the state, counties, cities,~~
 19 ~~towns, school districts,~~ except:

20 (A) if congress passes legislation that allows the
 21 state to tax property owned by an agency created by congress
 22 to transmit or distribute electrical energy, the property
 23 constructed, owned, or operated by a public agency created
 24 by the congress to transmit or distribute electric energy
 25 produced at privately owned generating facilities (not

1 including rural electric cooperatives); or
 2 (B) as provided in 15-24-1103;
 3 (ii) the state, counties, cities, towns, and school
 4 districts;
 5 (iii) irrigation districts organized under the laws
 6 of Montana and not operating for profit;
 7 (iv) municipal corporations; and
 8 (v) public libraries;
 9 (b) buildings, with land they occupy and furnishings
 10 therein, owned by a church and used for actual religious
 11 worship or for residences of the clergy, together with
 12 adjacent land reasonably necessary for convenient use of the
 13 buildings;
 14 (c) property used exclusively for agricultural and
 15 horticultural societies, for educational purposes, and for
 16 nonprofit health care facilities, as defined in 50-5-101,
 17 licensed by the department of health and environmental
 18 sciences and organized under Title 35, chapter 2 or 3. A
 19 health care facility that is not licensed by the department
 20 of health and environmental sciences and organized under
 21 Title 35, chapter 2 or 3, is not exempt.
 22 (d) property that meets the following conditions:
 23 (i) is owned and held by any association or corporation
 24 organized under Title 35, chapter 2, 3, 20, or 21;
 25 (ii) is devoted exclusively to use in connection with a

1 cemetery or cemeteries for which a permanent care and
2 improvement fund has been established as provided for in
3 Title 35, chapter 20, part 3; and

4 (iii) is not maintained and operated for private or
5 corporate profit;

6 (e) property owned by institutions of purely public
7 charity and directly used for purely public charitable
8 purposes;

9 (f) evidence of debt secured by mortgages of record
10 upon real or personal property in the state of Montana;

11 (g) public museums, art galleries, zoos, and
12 observatories not used or held for private or corporate
13 profit;

14 (h) all household goods and furniture, including but
15 not limited to clocks, musical instruments, sewing machines,
16 and wearing apparel of members of the family, used by the
17 owner for personal and domestic purposes or for furnishing
18 or equipping the family residence;

19 (i) a truck canopy cover or topper weighing less than
20 300 pounds and having no accommodations attached. This
21 property is also exempt from taxation under 61-3-504(2) and
22 61-3-537.

23 (j) a bicycle, as defined in 61-1-123, used by the
24 owner for personal transportation purposes;

25 (k) motor homes, travel trailers, and campers;

1 (l) all watercraft;

2 (m) motor vehicles, land, fixtures, buildings, and
3 improvements owned by a cooperative association or nonprofit
4 corporation organized to furnish potable water to its
5 members or customers for uses other than the irrigation of
6 agricultural land;

7 (n) the right of entry that is a property right
8 reserved in land or received by mesne conveyance (exclusive
9 of leasehold interests), devise, or succession to enter land
10 whose surface title is held by another to explore, prospect,
11 or dig for oil, gas, coal, or minerals;

12 (o) property owned and used by a corporation or
13 association organized and operated exclusively for the care
14 of the developmentally disabled, mentally ill, or
15 vocationally handicapped as defined in 18-5-101, which is
16 not operated for gain or profit, and property owned and used
17 by an organization owning and operating facilities for the
18 care of the retired, aged, or chronically ill, which are not
19 operated for gain or profit;

20 (p) all farm buildings with a market value of less than
21 \$500 and all agricultural implements and machinery with a
22 market value of less than \$100;

23 (q) property owned by a nonprofit corporation organized
24 to provide facilities primarily for training and practice
25 for or competition in international sports and athletic

1 events and not held or used for private or corporate gain or
 2 profit. For purposes of this subsection (q), "nonprofit
 3 corporation" means an organization exempt from taxation
 4 under section 501(c) of the Internal Revenue Code and
 5 incorporated and admitted under the Montana Nonprofit
 6 Corporation Act.

7 (r) provided the tools are owned by the taxpayer, the
 8 first \$15,000 or less of market value of tools that are
 9 customarily hand-held and that are used to:

10 (i) construct, repair, and maintain improvements to
 11 real property; or

12 (ii) repair and maintain machinery, equipment,
 13 appliances, or other personal property;

14 (s) harness, saddlery, and other tack equipment;

15 (t) a title plant owned by a title insurer or a title
 16 insurance producer, as those terms are defined in 33-25-105;
 17 and

18 (u) beginning January 1, 1994, timber as defined in
 19 15-44-102.

20 (2) (a) The term "institutions of purely public
 21 charity" includes any organization that meets the following
 22 requirements:

23 (i) The organization qualifies as a tax-exempt
 24 organization under the provisions of section 501(c)(3),
 25 Internal Revenue Code, as amended.

1 (ii) The organization accomplishes its activities
 2 through absolute gratuity or grants; however, the
 3 organization may solicit or raise funds by the sale of
 4 merchandise, memberships, or tickets to public performances
 5 or entertainment or by other similar types of fundraising
 6 activities.

7 (b) For the purposes of subsection (1)(g), the term
 8 "public museums, art galleries, zoos, and observatories"
 9 means governmental entities or nonprofit organizations whose
 10 principal purpose is to hold property for public display or
 11 for use as a museum, art gallery, zoo, or observatory. The
 12 exempt property includes all real and personal property
 13 reasonably necessary for use in connection with the public
 14 display or observatory use. Unless the property is leased
 15 for a profit to a governmental entity or nonprofit
 16 organization by an individual or for-profit organization,
 17 real and personal property owned by other persons is exempt
 18 if it is:

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

21 (ii) held for future display; or

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

23 (3) The following portions of the appraised value of a
 24 capital investment made after January 1, 1979, in a
 25 recognized nonfossil form of energy generation or low

emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 2. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein that is less than the fee, except under contract of sale, the property shall must be assessed and taxed as for the value, as defined in Title 15, chapter 6, part 1, of such the leasehold, interest, or estate in the property, and the The lien for the tax shall must attach to and be enforced against only the leasehold, interest, or estate in the property. Whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property shall must be assessed for full assessed value as defined in 15-8-111."

Section 3. Section 71-1-222, MCA, is amended to read:

"71-1-222. Proceedings in foreclosure suits. (1) There is but only one action for the recovery of debt or the

enforcement of any right secured by mortgage upon real estate, which and that action must be in accordance with the provisions of this part. In such the action, the court may, by its judgment, direct:

(a) a sale of the encumbered property (or so as much thereof of the property as may be necessary);

(b) the application of the proceeds of the sale, including the payment of property taxes due at the time of foreclosure; and

(c) the payment of the costs of the court, the expenses of the sale, and the amount due the plaintiff.

(2) If it appears from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment can then be docketed for such the balance against the defendant or defendants personally liable for the debt, and it becomes a lien upon the real estate of such the judgment debtor, as in other cases on which execution may be issued.

(3) No A person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien thereon on the property, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, does not need to be made a party to such the action. The judgment therein-rendered and the proceedings therein-had are as conclusive against the party holding such

1 the unrecorded conveyance or lien as if he the holding party
2 had been made a party to the action."

3 NEW SECTION. **Section 4.** Effective date --
4 applicability. [This act] is effective on passage and
5 approval and applies to any foreclosures occurring after
6 [the effective date of this act].

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ON TAXATION

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1 including rural electric cooperatives); or
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6 of Montana and not operating for profit;
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(3) ~~No~~ A person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien thereon on the property, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, does not need to be made a party to such the action. The judgment therein-rendered and the proceedings therein-had are as conclusive against the party holding such

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17 judgment debtor, as in other cases on which execution may be
18 issued.

19 (3) No A person holding a conveyance from or under the
20 mortgagor of the property mortgaged or having a lien thereon
21 on the property, which conveyance or lien does not appear of
22 record in the proper office at the time of the commencement
23 of the action, does not need to be made a party to such the
24 action. The judgment therein-rendered and the proceedings
25 therein-had are as conclusive against the party holding such

1 the unrecorded conveyance or lien as if he the holding party
2 had been made a party to the action."

3 NEW SECTION. **Section 4.** Effective date --
4 applicability. [This act] is effective on passage and
5 approval and applies to any foreclosures occurring after
6 [the effective date of this act].

-End-

HOUSE BILL NO. 160

INTRODUCED BY DEBRUYCKER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT OF PROPERTY TAXES BY ANY DEPARTMENT OR AGENCY OF THE UNITED STATES WHEN THE DEPARTMENT OR AGENCY ACQUIRES INTEREST IN THE PROPERTY THROUGH FORECLOSURE; ALLOWING A COURT TO DIRECT THE PAYMENT OF PROPERTY TAXES AT THE TIME OF FORECLOSURE; AMENDING SECTIONS 15-6-201, 15-24-1103, AND 71-1-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. **Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, ~~the state, counties, cities, towns, school districts,~~ except:

(A) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not

including rural electric cooperatives); 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 operating for profit;

(iv) municipal corporations; and

(v) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a

1 cemetery or cemeteries for which a permanent care and
2 improvement fund has been established as provided for in
3 Title 35, chapter 20, part 3; and

4 (iii) is not maintained and operated for private or
5 corporate profit;

6 (e) property owned by institutions of purely public
7 charity and directly used for purely public charitable
8 purposes;

9 (f) evidence of debt secured by mortgages of record
10 upon real or personal property in the state of Montana;

11 (g) public museums, art galleries, zoos, and
12 observatories not used or held for private or corporate
13 profit;

14 (h) all household goods and furniture, including but
15 not limited to clocks, musical instruments, sewing machines,
16 and wearing apparel of members of the family, used by the
17 owner for personal and domestic purposes or for furnishing
18 or equipping the family residence;

19 (i) a truck canopy cover or topper weighing less than
20 300 pounds and having no accommodations attached. This
21 property is also exempt from taxation under 61-3-504(2) and
22 61-3-537.

23 (j) a bicycle, as defined in 61-1-123, used by the
24 owner for personal transportation purposes;

25 (k) motor homes, travel trailers, and campers;

1 (l) all watercraft;

2 (m) motor vehicles, land, fixtures, buildings, and
3 improvements owned by a cooperative association or nonprofit
4 corporation organized to furnish potable water to its
5 members or customers for uses other than the irrigation of
6 agricultural land;

7 (n) the right of entry that is a property right
8 reserved in land or received by mesne conveyance (exclusive
9 of leasehold interests), devise, or succession to enter land
10 whose surface title is held by another to explore, prospect,
11 or dig for oil, gas, coal, or minerals;

12 (o) property owned and used by a corporation or
13 association organized and operated exclusively for the care
14 of the developmentally disabled, mentally ill, or
15 vocationally handicapped as defined in 18-5-101, which is
16 not operated for gain or profit, and property owned and used
17 by an organization owning and operating facilities for the
18 care of the retired, aged, or chronically ill, which are not
19 operated for gain or profit;

20 (p) all farm buildings with a market value of less than
21 \$500 and all agricultural implements and machinery with a
22 market value of less than \$100;

23 (q) property owned by a nonprofit corporation organized
24 to provide facilities primarily for training and practice
25 for or competition in international sports and athletic

1 events and not held or used for private or corporate gain or
 2 profit. For purposes of this subsection (q), "nonprofit
 3 corporation" means an organization exempt from taxation
 4 under section 501(c) of the Internal Revenue Code and
 5 incorporated and admitted under the Montana Nonprofit
 6 Corporation Act.

7 (r) provided the tools are owned by the taxpayer, the
 8 first \$15,000 or less of market value of tools that are
 9 customarily hand-held and that are used to:

10 (i) construct, repair, and maintain improvements to
 11 real property; or

12 (ii) repair and maintain machinery, equipment,
 13 appliances, or other personal property;

14 (s) harness, saddlery, and other tack equipment;

15 (t) a title plant owned by a title insurer or a title
 16 insurance producer, as those terms are defined in 33-25-105;
 17 and

18 (u) beginning January 1, 1994, timber as defined in
 19 15-44-102.

20 (2) (a) The term "institutions of purely public
 21 charity" includes any organization that meets the following
 22 requirements:

23 (i) The organization qualifies as a tax-exempt
 24 organization under the provisions of section 501(c)(3),
 25 Internal Revenue Code, as amended.

1 (ii) The organization accomplishes its activities
 2 through absolute gratuity or grants; however, the
 3 organization may solicit or raise funds by the sale of
 4 merchandise, memberships, or tickets to public performances
 5 or entertainment or by other similar types of fundraising
 6 activities.

7 (b) For the purposes of subsection (1)(g), the term
 8 "public museums, art galleries, zoos, and observatories"
 9 means governmental entities or nonprofit organizations whose
 10 principal purpose is to hold property for public display or
 11 for use as a museum, art gallery, zoo, or observatory. The
 12 exempt property includes all real and personal property
 13 reasonably necessary for use in connection with the public
 14 display or observatory use. Unless the property is leased
 15 for a profit to a governmental entity or nonprofit
 16 organization by an individual or for-profit organization,
 17 real and personal property owned by other persons is exempt
 18 if it is:

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

21 (ii) held for future display; or

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

23 (3) The following portions of the appraised value of a
 24 capital investment made after January 1, 1979, in a
 25 recognized nonfossil form of energy generation or low

emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 2. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein that is less than the fee, except under contract of sale, the property ~~shall~~ must be assessed and taxed as for the value, as defined in Title 15, chapter 6, part 1, of such the leasehold, interest, or estate in the property, and the The lien for the tax ~~shall~~ must attach to and be enforced against only the leasehold, interest, or estate in the property. Whenever the interest in the property is acquired through foreclosure, the lessor is liable for property taxes. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property ~~shall~~ must be assessed for full assessed value as defined in 15-8-111."

Section 3. Section 71-1-222, MCA, is amended to read:

"71-1-222. Proceedings in foreclosure suits. (1) There is ~~but~~ only one action for the recovery of debt or the

enforcement of any right secured by mortgage upon real estate, which and that action must be in accordance with the provisions of this part. In such the action, the court may, by its judgment, direct:

(a) a sale of the encumbered property (or ~~so~~ as much thereof of the property as may be necessary);

(b) the application of the proceeds of the sale, including the payment of property taxes due at the time of foreclosure; and

(c) the payment of the costs of the court, the expenses of the sale, and the amount due the plaintiff.

(2) If it appears from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment can then be docketed for such the balance against the defendant or defendants personally liable for the debt, and it becomes a lien upon the real estate of such the judgment debtor, as in other cases on which execution may be issued.

(3) No A person holding a conveyance from or under the mortgagor of the property mortgaged or having a lien thereon on the property, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, does not need to be made a party to such the action. The judgment therein-rendered and the proceedings therein-had are as conclusive against the party holding such

1 the unrecorded conveyance or lien as if he the holding party
2 had been made a party to the action."

3 NEW SECTION. Section 4. Effective date --
4 applicability. [This act] is effective on passage and
5 approval and applies to any foreclosures occurring after
6 [the effective date of this act].

-End-

SENATE BILL NO. 160

INTRODUCED BY RYE, DEVLIN, LYNCH, BRANDEWIE,

ZOOK, DRISCOLL, PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING
DISCRIMINATION AGAINST AN EMPLOYEE FOR USE OF A LAWFUL
PRODUCT DURING NONWORKING HOURS; AMENDING SECTION 39-2-903,
MCA; AND PROVIDING FOR CIVIL DAMAGES."

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

NEW SECTION. Section 1. Discrimination prohibited for
use of lawful product during nonworking hours -- exceptions.
(1) FOR PURPOSES OF THIS SECTION, "LAWFUL PRODUCT" MEANS A
PRODUCT THAT IS LEGALLY CONSUMED, USED, OR ENJOYED AND
INCLUDES FOOD, BEVERAGES, AND TOBACCO.

~~†††~~(2) Except as provided in subsections ~~†††~~--and--~~†††~~
~~(3) AND (4)~~, an employer may not refuse to employ or license
and may not discharge-or-otherwise discriminate against an
individual with respect to compensation, promotion, or the
terms, conditions, or privileges of employment because the
individual legally uses a lawful product off the employer's
premises during nonworking hours.

~~†††~~(3) Subsection ~~†††~~ (2) does not apply to:

(a) use of a lawful product that:

(i) ~~impairs~~ AFFECTS IN ANY MANNER ~~APPEARS IN ANY MANNER~~

an individual's ability to perform job-related employment
responsibilities or threatens the safety of other employees;
or

(ii) conflicts with a bona fide occupational
qualification that is reasonably related to the individual's
employment;

(b) an individual who, on a personal basis, has a
professional service contract with an employer and the
unique nature of the services provided authorizes the
employer, as part of the service contract, to limit the use
of certain products; or

(c) an employer that is a nonprofit organization that,
as one of its primary purposes or objectives, discourages
the use of one or more lawful products by the general
public.

~~†††~~(4) An employer does not violate this section if the
employer takes action based on the belief that the
employer's actions are permissible under an established
substance abuse or alcohol program or policy, professional
contract, or collective bargaining agreement.

~~†††~~(5) An employer may offer, impose, or have in effect
a health, disability, or life insurance policy that makes
distinctions between employees for the type or price of
coverage based on the employees' recreational-activities--or
use of a product if:

(a) differential rates assessed against employees reflect actuarially justified differences in providing employee benefits;

(b) the employer provides an employee with written notice delineating the differential rates used by the employer's insurance carriers; and

(c) the distinctions in the type or price of coverage is not used to expand, limit, or curtail the rights or liabilities of a party in a civil cause of action.

NEW SECTION. Section 2. Civil action -- LIMITATION. "An (1) EXCEPT AS PROVIDED IN SUBSECTION (2), AN individual who is discharged, discriminated against, or denied employment in violation of [section 1] may file a civil action against ~~an employer within one year of the alleged violation and~~ AGAINST AN EMPLOYER WITHIN 1 YEAR OF THE ALLEGED VIOLATION AND THE COURT may receive actual damages, court costs, MAY REQUIRE ANY REASONABLE MEASURE TO CORRECT THE DISCRIMINATORY PRACTICE AND TO RECTIFY THE HARM, PECUNIARY OR OTHERWISE, TO THE PERSON DISCRIMINATED AGAINST and AND MAY ALLOW reasonable attorney fees REASONABLE ATTORNEY FEES TO THE PREVAILING PARTY FOR REMEDIES AS PROVIDED IN 39-2-905.

(2) PRIOR TO FILING A CIVIL ACTION UNDER SUBSECTION (1), AN EMPLOYEE SHALL, WITHIN 120 DAYS OF THE ALLEGED VIOLATION, INITIATE ANY INTERNAL GRIEVANCE PROCEDURE AVAILABLE. IF A GRIEVANCE PROCEDURE IS NOT EXHAUSTED WITHIN

120 DAYS, THE EMPLOYEE MAY FILE A CIVIL ACTION.

SECTION 3. SECTION 39-2-903, MCA, IS AMENDED TO READ:

"39-2-903. Definitions. In this part, the following definitions apply:

(1) "Constructive discharge" means the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative. Constructive discharge does not mean voluntary termination because of an employer's refusal to promote the employee or improve wages, responsibilities, or other terms and conditions of employment.

(2) "Discharge" includes a constructive discharge as defined in subsection (1) and any other termination of employment, including resignation, elimination of the job, layoff for lack of work, failure to recall or rehire, and any other cutback in the number of employees for a legitimate business reason.

(3) "Employee" means a person who works for another for hire. The term does not include a person who is an independent contractor.

(4) "Fringe benefits" means the value of any employer-paid vacation leave, sick leave, medical insurance plan, disability insurance plan, life insurance plan, and

1 pension benefit plan in force on the date of the
2 termination.

3 (5) "Good cause" means reasonable job-related grounds
4 for dismissal based on a failure to satisfactorily perform
5 job duties, disruption of the employer's operation, or other
6 legitimate business reason. The legal use of a lawful
7 product by an individual off the employer's premises during
8 nonworking hours is not a legitimate business reason, UNLESS
9 THE EMPLOYER ACTS WITHIN THE PROVISIONS OF [SECTION 1(3) OR
10 (4)].

11 (6) "Lost wages" means the gross amount of wages that
12 would have been reported to the internal revenue service as
13 gross income on Form W-2 and includes additional
14 compensation deferred at the option of the employee.

15 (7) "Public policy" means a policy in effect at the
16 time of the discharge concerning the public health, safety,
17 or welfare established by constitutional provision, statute,
18 or administrative rule."

19 NEW SECTION. Section 4. Codification instruction.
20 [Sections 1 and 2] are intended to be codified as an
21 integral part of Title 39, chapter 2, part 3, and the
22 provisions of Title 39, chapter 2, part 3, apply to
23 [sections 1 and 2].

-End-