

## 1 HOUSE BILL NO. 357

2 INTRODUCED BY G. MACLAREN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAX CREDIT FOR EMPLOYER CONTRIBUTIONS  
5 TO AN EMPLOYEE HEALTH SAVINGS ACCOUNT; LIMITING THE CREDIT TO A 4-YEAR PERIOD;  
6 GRANTING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
7 RETROACTIVE APPLICABILITY DATE."

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

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11 NEW SECTION. **Section 1. Tax credit for employer contributions to employee health savings**  
12 **account.** (1) There is a credit against taxes otherwise due under 15-30-2103 for allowable employer contributions  
13 to an employee health savings account. The credit must be computed and administered as provided in [section  
14 2].

15 (2) A self-employed individual or an employer who is eligible to contribute to a health savings account  
16 under the provisions of 26 U.S.C. 223 may include the contribution as a credit equal to the amount of the credit  
17 allowed for an eligible employee under the provisions of [section 2].

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19 NEW SECTION. **Section 2. Tax credit for employer contributions to health savings -- rules.** (1)  
20 Subject to the provisions of this section, an employer is allowed a credit against the taxes otherwise due under  
21 15-30-2103 or 15-31-101 for the amount of contributions paid in the tax year by the employer to each employee's  
22 health savings account established for the employee under the provisions of 26 U.S.C. 223 to the extent the  
23 employee is eligible to make contributions to the health savings account.

24 (2) The credit is available only to employers who have not paid contributions into a health savings  
25 account during the 2 tax years immediately preceding the tax year for which the credit is first claimed under this  
26 section. The amount of the credit under this subsection (2) is equal to 50% of the amount contributed to each  
27 employee's health savings account. The credit allowed under this section may not exceed \$600 for each eligible  
28 employee.

29 (3) The credit allowed under this section may not be claimed for more than 4 consecutive tax years. The  
30 credit may not be claimed by an employer or the employer's successor within 10 years of the last consecutive

1 credit claimed.

2 (4) The credit allowed under this section may not exceed the taxpayer's income tax liability under  
3 15-30-2103 or 15-31-101, and there is no carryback or carryforward of the credit permitted under this section.

4 (5) An exclusion, deduction, or credit is not allowed under any other provision of Title 15, chapter 30 or  
5 31, with respect to any amount for which a credit is allowed under this section.

6 (6) If the credit allowed under this section is claimed by a small business corporation, as defined in  
7 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or  
8 partners using the same proportion as used to report the entity's income or loss.

9 (7) The department shall adopt rules, prepare forms, maintain records, and perform other duties  
10 necessary to implement this section.

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12 **NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an  
13 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section  
14 1].

15 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the  
16 provisions of Title 15, chapter 31, part 1, apply to [section 2].

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18 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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20 **NEW SECTION. Section 5. Retroactive applicability.** [This act] applies retroactively, within the  
21 meaning of 1-2-109, to tax years beginning after December 31, 2010.

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