



AN ACT GENERALLY REVISING TAXATION OF INCOME, INCLUDING THE CORPORATE INCOME TAX; REQUIRING THE TAXATION OF INDIVIDUALS, PARTNERSHIPS, AND SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND ESTATES, TO RELATE THE STATE INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO INCLUDE CERTAIN INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO EXCLUDE CERTAIN INCOME; ELIMINATING MOST INDIVIDUAL INCOME TAX DEDUCTIONS; ELIMINATING CERTAIN INDIVIDUAL INCOME TAX CREDITS; REVISING CERTAIN INDIVIDUAL INCOME TAX CREDITS; ELIMINATING CERTAIN CORPORATE INCOME TAX DEDUCTIONS AND CREDITS; REVISING INDIVIDUAL INCOME TAX RATES SUBJECT TO A REDUCTION FOR NET CAPITAL GAIN INCOME; PROVIDING A TRANSITION FOR CREDITS THAT ARE SUBJECT TO A CARRYFORWARD; PROVIDING A TRANSITION FOR DIFFERENCES IN FEDERAL AND MONTANA INCOME TAX LAWS; REENACTING THE BIG SKY ON THE BIG SCREEN ACT AND MAKING PERMANENT THE AVAILABILITY AND USE OF TAX CREDITS; PROMOTING THE MOTION PICTURE AND TELEVISION INDUSTRIES AND RELATED MEDIA IN MONTANA BY PROVIDING TAX INCENTIVES FOR FILMING AND FOR DEVELOPING MAGAZINE ADVERTISING IN MONTANA; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR EMPLOYING MONTANA RESIDENTS; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR QUALIFYING EXPENDITURES MADE IN MONTANA; REQUIRING A PRODUCTION COMPANY TO APPLY TO THE DEPARTMENT OF COMMERCE FOR STATE CERTIFICATION OF A PRODUCTION TO QUALIFY FOR THE TAX CREDITS; REQUIRING AN APPLICATION AND AN APPLICATION FEE FOR A PRODUCTION COMPANY TO CLAIM TAX CREDITS FOR A STATE-CERTIFIED PRODUCTION; REQUIRING THAT THE APPLICATION FEE BE USED FOR ADMINISTERING THE TAX CREDITS; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-1312, 7-14-1133, 7-14-1636, 7-34-2416, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104, 15-30-2113, 15-30-2151, 15-30-2153, 15-30-2328, 15-30-2329, 15-30-2337, 15-30-2341, 15-30-2501, 15-30-2512, 15-30-2602, 15-30-2605, 15-30-2606, 15-30-2618, 15-30-2364, 15-30-3003, 15-30-3004, 15-30-3005, 15-30-3312, 15-31-125, 15-31-127, 15-31-131, 15-31-162, 15-32-104, 15-32-106, 15-61-202, 15-61-203, 15-62-208, 15-63-202, 17-7-502, 19-2-1004, 19-17-407, 19-18-612,

19-19-504, 19-20-706, 19-21-212, 33-22-2006, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 53-2-211, 67-11-303, 70-9-803, 75-2-103, 75-5-103, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 7-21-3701, 7-21-3702, 7-21-3703, 7-21-3704, 7-21-3710, 7-21-3715, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2115, 15-30-2116, 15-30-2117, 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144, 15-30-2152, 15-30-2301, 15-30-2319, 15-30-2320, 15-30-2356, 15-31-124, 15-31-134, 15-31-137, 15-31-163, 15-31-172, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-301, 15-32-302, 15-32-303, 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-701, 15-32-702, 15-32-703, 15-62-207, AND 33-2-724, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION DATE.

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

**Section 1. Adjustments to federal taxable income to determine Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(c) a nonqualified withdrawal from a family education savings account provided for in Title 15, chapter 62, to the extent that it was deducted from income in calculating Montana individual income taxes;

(d) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable

income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction or expense upon which a state tax credit is computed under 33-22-2006 to the extent that it was included as a deduction or expense in determining federal taxable income;

(g) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661; and

(h) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

(3) To the extent they are included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest; and

(ii) railroad retirement benefits;

(b) salary received from the armed forces by residents who entered into active duty from Montana and are serving on active duty in the regular armed forces;

(c) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(d) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a family education savings account provided for in Title 15, chapter 62, and any qualified withdrawal for payment of qualified higher education expenses;

(e) interest and other income related to contributions that were made prior to January 1, 2016, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(f) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the additions and subtractions in subsections (2) and (3)(a) through (3)(e) and (3)(g) and (3)(h); and

(g) for each taxpayer that has attained the age of 65, an additional subtraction of \$6,400; and

(h) the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes.

(4) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

**Section 2. Short title.** [Sections 2 through 11] may be cited as the "Big Sky on the Big Screen Act".

**Section 3. Purpose.** (1) The purposes of [sections 2 through 11] are to enhance Montana's economy by revitalizing and expanding the motion picture and television industries and related media in Montana and to promote the growth of small businesses. The objectives of [sections 2 through 11] are to:

(a) renew interest in Montana as a premier location for the production of motion pictures, documentaries, television programs and commercials, and magazine advertising;

(b) encourage the creation of jobs that pay well for Montana workers and university graduates;

(c) enhance the growth of Montana businesses that provide goods and services for these types of productions; and

(d) help promote the tourism industry in Montana.

(2) The objectives in subsection (1) will best be achieved by offering tax incentives to production companies for hiring Montana residents and for purchasing Montana goods and services.

**Section 4. Definitions.** As used in [sections 2 through 11], unless the context requires otherwise, the following definitions apply:

(1) "Compensation" means salary, wages, or other compensation, including related benefits paid to a

Montana resident.

(2) (a) "Production" means a nationally or regionally distributed feature-length film, short film, documentary, television series or segment, television pilot, magazine advertising other than advertising for tobacco products, or commercial made in Montana, in whole or in part, for theatrical, television, video, internet, or other viewing.

(b) The term does not include the production of television coverage of news and athletic events or a film, video, internet production, television series, magazine advertising, or commercial that:

(i) contains any obscene material or performance as described in 45-8-201(2); or

(ii) is produced in whole or in part with money received for tobacco product placement, advertisement, or other tobacco use in the production.

(3) (a) "Production company" means a company engaged in the business of producing nationally or regionally distributed productions.

(b) The term does not include a company owned, affiliated, or controlled by, in whole or in part, a company or person that is in default on a loan made by this state or a loan guaranteed by this state or a company or person that has filed for bankruptcy.

(4) (a) "Qualified expenditures" means expenditures in Montana made by a production company that are directly related to a state-certified production. The term includes expenditures for lodging expenses, restaurant and food expenses, location fees, lumber and construction materials, rental of production equipment and vehicles, and supplies and materials that will be used in the production.

(b) The term does not include expenditures made for goods and services obtained out of state.

(5) "Resident" or "Montana resident", for the purpose of determining eligibility for the tax credit provided under [section 8], has the meaning provided in 15-30-2101.

(6) "State-certified production" means a production certified by the department of commerce as provided in [section 5] and produced by a production company that has a national or regional distribution plan, including but not limited to a major theatrical exhibition, film festival, television network, cable television programming, magazine advertising, or video or internet distribution.

**Section 5. Application for state certification -- approval -- revocation -- eligibility for tax credits**

-- rules. (1) A production company may not receive the tax credits allowed under [sections 8 and 9] unless the

production has been certified by the department of commerce, as provided in this section, and has applied to the department of revenue for the tax credits as provided in [section 7]. The certification by the department of commerce must occur within 30 days after submission of the application under this section.

(2) An application, on a form provided by the department of commerce, must be submitted by the production company to the department of commerce before the start of principal photography. The application must include:

(a) the production company's name, primary home address, business address, telephone and fax numbers, incorporation information, and federal tax identification number;

(b) the address and telephone and fax numbers of the production company's Montana office;

(c) the name of the line producer, unit production manager, or production accountant or the names of all three;

(d) a statement that the applicant meets the definition of a production company under [section 4];

(e) the title of the production;

(f) the type of production;

(g) the proposed dates of production from preproduction to the start and completion of principal photography;

(h) a copy or synopsis of the production script;

(i) a list of the production locations;

(j) a statement that the proposed production:

(i) does not contain any material or performance that would be considered obscene under 45-8-201(2);

or

(ii) will not receive any money for tobacco product placement, advertisement, or other tobacco use in the production; and

(k) if the production is a feature-length film, a statement that the production will include a line in the production's film credits that the production was filmed in Montana.

(3) The application must be signed by the manager, agent, president, vice president, or other person authorized to represent the production company.

(4) (a) The department of commerce shall notify the applicant within 30 days of receipt of the application as to whether the production qualifies as a state-certified production.

(b) (i) Subject to subsection (4)(b)(ii), if the department of commerce approves the application, the department of commerce shall provide a certification number to the applicant and notify the department of revenue of the approval and certification number.

(ii) If the production is a feature-length film, the production company and the department of commerce, prior to the issuance of the certification number, shall enter into an agreement that the production company will comply with the provisions of subsection (2)(k). The agreement may provide for remedies if the production company violates the agreement.

(5) If the department of commerce determines that the production company has violated the provisions of subsection (2)(d) or (2)(j), the department of commerce may revoke the state certification of the production. If the department of commerce revokes the state certification, the department of commerce shall notify the department of revenue. The production company has the right to a hearing under Title 2, chapter 4, part 6.

(6) The department of commerce shall prescribe rules, including a procedure for review of that department's denial or revocation of state certification, necessary to carry out the provisions of this section.

**Section 6. Submission of costs.** Within 60 days of completion of principal photography, the production company shall submit to the department a statement of all expenditures and compensation paid to Montana residents.

**Section 7. Application for tax credit -- fee.** (1) To receive the tax credits under [sections 8 and 9] for a state-certified production, a production company shall apply to the department on a form prescribed by the department. The form must be accompanied by an application fee. The application must be made and the fee paid at the time the production company files its tax return.

(2) The application fee is \$500.

(3) The fee must be deposited in the state special revenue account. The fee is statutorily appropriated, as provided in 17-7-502, in equal amounts to the department of revenue and the department of commerce to administer the provisions of [section 5 and sections 7 through 11].

**Section 8. Employment production tax credit.** (1) A production company that has submitted an application for a tax credit and paid the fee as required under [section 7] is allowed a tax credit against the taxes

imposed by chapter 30 or 31 for the employment of residents of this state in connection with a state-certified production in the state. Except as provided in subsection (4)(b), the credit is equal to credit carryovers and the credit for the tax year.

(2) The aggregate of the credit allowed under this section for a production occurring in the production company's tax year is equal to the sum of 14% of the first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the state-certified production during the tax year.

(3) The taxpayer is required to provide to the department, on a form prescribed by the department, a list of all cast and crew participating in the production and the amount of compensation paid to each Montana resident. The form returned by the taxpayer must include the certification number provided for in [section 5].

(4) If the credit exceeds the taxpayer's tax liability, the taxpayer shall make a one-time election to claim the credit for each state-certified production allowed under this section as follows:

(a) the credit may be refunded; or

(b) the credit may be carried forward against the taxes imposed by chapter 30 or 31 for the 4 succeeding tax years.

(5) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

(6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the compensation upon which the amount of the credit was computed as a deduction under 15-30-2131 or 15-31-114.

(7) If any application of this section is held invalid, this section applies to other situations or persons in a manner that is not included in the invalid application.

**Section 9. Tax credit for qualified expenditures.** (1) A production company that has submitted an application and paid the fee as required under [section 7] is allowed a tax credit against the taxes imposed by chapter 30 or 31 for qualified expenditures in this state made in connection with a state-certified production in the state. The credit allowed under this section is equal to 9% of the total qualified expenditures incurred in connection with the state-certified production during the tax year.

(2) (a) The taxpayer is required to provide to the department, on a form prescribed by the department,



the amount of qualified expenditures. The form returned by the taxpayer must include the certification number provided for in [section 5]. The taxpayer shall also provide other information required by the department to verify the accuracy of the qualified expenditures.

(b) The taxpayer shall certify in writing to the department, under penalty of false swearing as provided in 45-7-202, that the taxpayer has paid in full to each vendor in Montana for all goods and services purchased by the taxpayer in connection with the state-certified production during the tax year. A credit under this section may not be claimed unless the taxpayer has paid in full for all purchases of goods and services from Montana vendors.

(3) The credit allowed under this section must be refunded if a taxpayer has tax liability less than the amount of the credit.

(4) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

(5) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the qualified expenditure upon which the amount of the credit was computed as a deduction under 15-30-2131 or 15-31-114.

**Section 10. Denial of claim for credit -- recapture.** A taxpayer whose state-certified production has been revoked as provided in [section 5(5)] may not claim the credits allowed under [sections 8 and 9]. If the department of commerce revokes the state certification of a production company after the production company has taken a credit under [section 8 or 9], the production company shall refund the amount of any credits taken. The taxpayer is subject to the penalty and interest provisions of this chapter.

**Section 11. Rules.** (1) The department of revenue shall adopt rules that are necessary to implement and administer [sections 7 through 10] and this section. The department shall, in consultation with the department of commerce, develop procedures for determining compensation paid to residents and qualified expenditures for the credits allowed under [sections 8 and 9] and for taxpayer compliance with the provisions of [section 5].

(2) The department and the department of commerce shall jointly adopt rules related to the definitions in [section 4].

**Section 12.** Section 2-18-1312, MCA, is amended to read:

**"2-18-1312. Tax exemption.** Employer contributions into an account, the accumulation of interest or other earnings in an account, and payments from an account for qualified health care expenses are tax-exempt, as provided in ~~15-30-2110~~ and under applicable federal laws and regulations to the extent that the plan is qualified under applicable sections of the Internal Revenue Code."

**Section 13.** Section 7-14-1133, MCA, is amended to read:

**"7-14-1133. Bonds and obligations.** (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds, including refunding bonds, for any of its corporate purposes. The bonds may be in the form and upon terms as it determines, payable out of any revenue of the authority, including revenue derived from:

- (a) any port or transportation and storage facility;
- (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any ~~then-outstanding~~ then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from the pledged source in ~~such~~ that year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenue of the authority or from particular port, transportation, storage,

or other facilities of the authority. The bonds must state on their face the applicable limitations or restrictions regarding the source from which principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~

(5) (a) For the security of bonds, the authority, county, or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this part, prior to the payment of current costs of operation and maintenance of the facilities.

(b) As further security for the bonds, the authority, with the approval of the governing body of the county or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or any portion of its port, transportation, storage, or other facilities, whether or not the facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the authority consider advisable. The provisions must be consistent with this part and are subject to and must be in accordance with the laws of this state governing mortgages, trust indentures, security agreements, or instruments. The instrument may provide that in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by mandamus or by the appointment of a receiver in equity. The receiver may collect charges, rental, or fees and may apply the revenue from the mortgaged property or collateral in accordance with the proceedings or the provisions of the instrument.

(6) Nothing in ~~this section or 7-14-1134~~ this section may be construed to limit the use of port authority revenue, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide financial and other support to private development organizations, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4. The credit of the state, county, or municipal ~~governments~~ government or their agencies or authorities may not be pledged to provide financial support to the development organizations."

**Section 14.** Section 7-14-1636, MCA, is amended to read:

**"7-14-1636. Bonds and obligations.** (1) An authority may borrow money for any of its corporate purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it determines, payable out of any revenue of the authority, including revenue derived from:

- (a) a railroad;
- (b) taxes levied pursuant to 7-14-1632;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~

(5) For the security of the bonds, the authority may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from the revenue referred to in this part, prior to the payment of current costs of operation and maintenance of the facilities."

**Section 15.** Section 7-34-2416, MCA, is amended to read:

**"7-34-2416. Tax-exempt status of bonds.** Bonds issued by a county pursuant to the provisions of

7-34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-2110(2)(a)."

**Section 16.** Section 15-30-2101, MCA, is amended to read:

**"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

- ~~\_\_\_\_\_~~ (1) "Base year structure" means the following elements of the income tax structure:
  - ~~\_\_\_\_\_~~ (a) the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June 30 of the taxable year;
  - ~~\_\_\_\_\_~~ (b) the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June 30 of the taxable year;
  - ~~\_\_\_\_\_~~ (c) the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect on June 30 of the taxable year.
- ~~\_\_\_\_\_~~ (2)(1) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.
- ~~(3)(2)~~ "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:
  - (a) that is treated as an association for federal income tax purposes;
  - (b) for which a valid election under section 1362 of the Internal Revenue Code, {26 U.S.C. 1362}, is not in effect; and
  - (c) that is not a disregarded entity.
- ~~(4)(3)~~ "Department" means the department of revenue.
- ~~(5)(4)~~ "Disregarded entity" means a business entity:
  - (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or
  - (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code, {26 U.S.C. 1361(b)(3)}.
- ~~(6)(5)~~ "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(6) "Federal adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62.

(7) "Federal taxable income", when referring to an individual, means taxable income as defined and described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or estate, means taxable income as defined and described in sections 641 through 692 of the Internal Revenue Code, 26 U.S.C. 641 through 692.

~~(7)~~(8) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(8)~~(9) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

~~(9)~~(10) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

~~(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.~~

(11) "Head of household" means a head of household as defined and described in section 2(b) of the Internal Revenue Code, 26 U.S.C. 2(b).

~~(11)~~(12) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June ~~2005~~ 2016.

~~(12)~~(13) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(13)~~(14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(15) "Joint return" means one return made jointly by a married individual with that individual's spouse.

~~(14)~~(16) "Knowingly" is as defined in 45-2-101.

~~(15)~~(17) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

~~(16)~~(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

~~(17)~~(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- (a) a resident taxpayer on a lottery ticket; or
- (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(20) "Married individual" means a married individual as defined and described in section 7703 of the Internal Revenue Code, 26 U.S.C. 7703.

~~(18)~~(21) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or

accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and



(xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(22) "Montana taxable income" means federal taxable income as determined for federal income tax purposes and adjusted as provided in [section 1].

~~(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.~~

~~(20)~~(23) "Nonresident" means a natural person who is not a resident.

~~(21)~~(24) "Paid", ~~for the purposes of the deductions and credits under this chapter,~~ means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting ~~upon the basis of which the~~ used to compute federal taxable income ~~is computed under this chapter.~~

~~(22)~~(25) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

~~(23)~~(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

~~(24)~~(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

~~(25)~~(28) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, ~~(26 U.S.C. 401)~~, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code, ~~(26 U.S.C. 401 through 408)~~, to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

~~(26)~~(29) "Purposely" is as defined in 45-2-101.

~~(27)~~(30) "Received", ~~for the purpose of computation of taxable income under this chapter,~~ means received or accrued, and the term "received or accrued" must be construed according to the method of accounting ~~upon the basis of which the~~ used to compute federal taxable income ~~is computed under this chapter.~~

~~(28)~~(31) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

~~(29)~~(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code, ~~(26 U.S.C. 1362)~~, is in effect.

~~(30)~~(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(34) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the Internal Revenue Code, 26 U.S.C. 2(a).

~~(34)~~(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

~~(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.~~

~~(33)~~(36) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

**Section 17.** Section 15-30-2102, MCA, is amended to read:

**"15-30-2102. Construction of net income.** For the purpose of raising revenue, the ~~net~~ income required to be shown on returns under this chapter and taken as the basis for determining the tax ~~hereunder shall~~ may not be classified or held or construed to be property. All income except what has been expressly exempted under the provisions of the Internal Revenue Code or this chapter and income not permitted to be taxed under the constitution of this state or the constitution or laws of the United States ~~shall~~ must be included and considered in determining the ~~net~~ income of taxpayers subject to tax within the ~~provision~~ provisions of this chapter."

**Section 18.** Section 15-30-2103, MCA, is amended to read:

**"15-30-2103. Rate of tax.** (1) ~~There~~ Except as provided in subsection (2), there must be levied, collected, and paid for each tax year upon the Montana taxable income of each taxpayer subject to this tax, ~~after making allowance for exemptions and deductions as provided in this chapter;~~ a tax on the brackets of taxable income as follows:

- ~~(a) on the first \$2,300 of taxable income or any part of that income, 1%;~~
- ~~\_\_\_\_\_ (b) on the next \$1,800 of taxable income or any part of that income, 2%;~~
- ~~\_\_\_\_\_ (c) on the next \$2,100 of taxable income or any part of that income, 3%;~~
- ~~\_\_\_\_\_ (d) on the next \$2,200 of taxable income or any part of that income, 4%;~~
- ~~\_\_\_\_\_ (e) on the next \$2,400 of taxable income or any part of that income, 5%;~~
- ~~\_\_\_\_\_ (f) on the next \$3,100 of taxable income or any part of that income, 6%;~~
- ~~\_\_\_\_\_ (g) on any taxable income in excess of \$13,900 or any part of that income, 6.9%.~~

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first \$41,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$41,000 or any part of that income, 6.1%;

(b) for every head of household:

(i) on the first \$30,750 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$30,750 or any part of that income, 6.1%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.1%;

(d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:

(i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.1%.

(2) The tax rates in subsection (1) are reduced by 1.5% for a taxpayer's net capital gain income, as shown on the taxpayer's individual income tax return filed pursuant to 15-30-2602.

(3) In applying the rates in effect under subsection (1) and the rate reduction for net capital gain income under subsection (2), Montana taxable income is divided into an ordinary income category and a net capital gain category. The rate of tax applied toward each category is calculated as follows:

(a) Ordinary income is taxed first by applying the 4.7% rate up to the limit of the 4.7% rate bracket determined under subsection (1) and at the 6.1% rate to the extent that ordinary income exceeds the 4.7% rate bracket.

(b) Net capital gain income is taxed after applying the rates in subsection (1) to all ordinary income as provided in subsection (3)(a), and the total amount of ordinary income subject to tax in subsection (3)(a) is the starting point for determining the rates that are applied toward net capital gain income. The rate of tax applied toward net capital gain income is calculated as follows:

(i) If the total amount of Montana taxable income is less than or equal to the amount of income subject to tax at the 4.7% rate bracket determined under subsection (1), then net capital gain income is taxed at a 3.2% rate.

(ii) If the total amount of ordinary income is less than the amount of income subject to tax at the 4.7% rate bracket determined under subsection (1) and the total amount of Montana taxable income exceeds the amount of income subject to tax at the 4.7% rate bracket determined under subsection (1), then all ordinary income is subject to tax at the 4.7% rate bracket and net capital gain income is taxed as follows:

(A) The ordinary income subject to tax in this subsection (3)(b)(ii) is subtracted from the amount of income subject to tax at the 4.7% rate bracket under subsection (1), and the difference from this calculation equals the amount of net capital gain income taxed at a 3.2% rate.

(B) All remaining net capital gain income that remains after applying the tax rates to the ordinary income and net capital gain income in subsection (3)(b)(ii)(A) is taxed at a 4.6% rate.

(iii) If ordinary income equals or exceeds the amount of income subject to tax at the 6.1% rate bracket under subsection (1), then all net capital gain income is taxed at a 4.6% rate.

~~(2)~~(4) (a) By November 1 of each year, the department shall multiply the bracket amount amounts contained in subsection (1) by the inflation factor for that tax year and round the cumulative brackets to the nearest:

(i) \$100 for the joint bracket under subsection (1)(a);

(ii) \$25 for the head of household bracket under subsection (1)(b); and

(iii) \$50 for the separate return brackets under subsections (1)(c) and (1)(d).

(b) The resulting adjusted brackets are effective for that tax year and must be used as the basis for imposition of the tax in subsection (1) of this section.

(5) For the purposes of this section, the term "ordinary income" means Montana taxable income less net capital gain income."

**Section 19.** Section 15-30-2104, MCA, is amended to read:

**"15-30-2104. Tax on nonresident.** (1) (a) A tax is imposed upon each nonresident individual, estate, or trust equal to the tax computed under 15-30-2103 as if the nonresident individual, estate, or trust were a resident during the entire tax year, multiplied by the ratio of Montana source income to total income from all sources.

(b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or credit to be counted more than once in determining the amount of Montana source income, and the department may

adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular items of income, gain, loss, deduction, expense, or credit.

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, each nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed \$100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. The tax is in lieu of the tax imposed under 15-30-2103 and subsection (1)(a) of this section. The gross volume of sales made in Montana during the tax year must be determined according to the provisions of Article IV, sections 16 and 17, of the Multistate Tax Compact."

**Section 20.** Section 15-30-2113, MCA, is amended to read:

**"15-30-2113. Determination of status -- effect of marital status elections.** For purposes of this chapter:

(1) ~~the determination of whether an individual is married must be made as of the close of the individual's tax year, except that if the individual's spouse dies during the individual's tax year, the determination must be made as of the time of death~~ marital status, dependent status, status as an association, partnership, or individual, and any other status must be made as provided in the Internal Revenue Code; ~~and~~

~~(2) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;~~

(2) the status that a taxpayer claims or elects in a federal income tax return with respect to the taxpayer or another individual or that the taxpayer or other individual is determined to have for federal income tax purposes conclusively determines the status of that individual; and

(3) a joint Montana individual income tax return must be filed for any tax year for which a joint federal income tax return is filed unless one of the individuals is a nonresident for any part of the tax year."

**Section 21.** Section 15-30-2113, MCA, is amended to read:

**"15-30-2113. Determination of status -- effect of marital status elections.** For purposes of this chapter:

~~(1) the determination of whether an individual is married must be made as of the close of the individual's tax year, except that if the individual's spouse dies during the individual's tax year, the determination must be made as of the time of death~~ marital status, dependent status, status as an association, partnership, or individual, and any other status must be made as provided in the Internal Revenue Code; and

~~————(2) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married:~~

(2) except as provided in subsection (3), the status that a taxpayer claims or elects in a federal income tax return with respect to the taxpayer or another individual or that the taxpayer or other individual is determined to have for federal income tax purposes conclusively determines the status of that individual; and

(3) a joint Montana individual income tax return must be filed for any tax year for which a joint federal income tax return is filed unless:

- (a) one of the individuals is a nonresident for any part of the tax year; or
- (b) filing of a joint Montana return is prohibited by state law."

**Section 22.** Section 15-30-2151, MCA, is amended to read:

**"15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.** (1) ~~A tax must be~~ is imposed ~~upon either on~~ the fiduciaries or the beneficiaries of estates and trusts ~~as provided in this section, except to the extent that estates and trusts must be held for educational, charitable, or religious purposes. The tax must be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:~~

- ~~————(a) income received by estates of deceased persons during the period of administration or settlement of the estate;~~
- ~~————(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;~~
- ~~————(c) income held for future distribution under the terms of the will or trust; and~~
- ~~————(d) income that is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of a minor, to be held or distributed as the court may direct in the same manner and to the same extent as federal income tax is imposed on them under the Internal Revenue Code.~~

(2) The fiduciary is responsible for making the return of income for the estate or trust for which the

fiduciary acts, whether the fiduciary or the beneficiaries are ~~taxable~~ responsible for the payment of the tax with reference to the income of the estate or trust. ~~In cases under subsections (1)(a) and (1)(d), the~~ The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the tax year for which the return is made, and at the request of the department shall furnish a copy of the federal income tax return for the estate or trust as provided in 15-30-2619. The department may require a fiduciary of an estate or trust to provide a copy of the federal schedule of the beneficiary's share of income, deductions, and credits when filing the Montana individual income tax return.

~~(3) In cases under subsections (1)(a), (1)(b), and (1)(c), the~~ The tax must be imposed upon on the fiduciary of the estate or trust with respect to the net income of the estate or trust and must be paid by the fiduciary. ~~If the taxpayer's net income for the tax year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then the taxpayer's distributive share of the net income of the estate or trust for any accounting period of the estate or trust ending within the fiscal or calendar year must be computed upon the basis on which the beneficiary's net income is computed. In those cases, a beneficiary who is not a resident must be taxable with respect to the beneficiary's income derived through the estate or trust only to the extent provided in 15-30-2111 for individuals other than residents:~~

~~————(4) The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of the employer's employees, to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees the earnings and principal of the fund accumulated by the trust in accordance with the plan, are not taxable under this section, but any amount contributed to the fund by the employer and all earnings of the fund must be included in computing the income of the distributee in the year in which distributed or made available to the distributee.~~

~~————(5) Where any part of the income of a trust other than a testamentary trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor, except policies of insurance irrevocably payable for the purposes and in the manner specified relating to the so-called "charitable contribution" deduction, or to the payment of premiums upon policies of life insurance under which the grantor is the beneficiary, the part of the income of the trust must be included in computing the net income of the grantor."~~

**Section 23.** Section 15-30-2153, MCA, is amended to read:



**"15-30-2153. Determination of tax of estates and trusts.** The amount of tax ~~must be~~ is determined from Montana taxable income of an estate or trust as adjusted in [section 1] ~~in the same manner as the tax on taxable income of individuals~~; by applying the rates contained in 15-30-2103. Credits allowed to individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

**Section 24.** Section 15-30-2328, MCA, is amended to read:

**"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit -- deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The credit allowed under this section may not exceed the taxpayer's income tax liability.

~~(2) The credit allowed under this section may not be claimed by an individual taxpayer if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-30-2131(1) or 15-30-2152(2).~~

~~(3)(2)~~ There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

~~(4)(3)~~ If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

(a) include as income the amount deducted in any prior year that is attributable to the charitable gift to the extent that the deduction reduced the taxpayer's individual income tax or corporate income tax; and

(b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken. (Terminates December 31, 2019--secs. 2 through 8, Ch. 317, L. 2013.)"

**Section 25.** Section 15-30-2329, MCA, is amended to read:

**"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the estate

in the same proportion used to report the beneficiary's income from the estate for Montana income tax purposes. The maximum amount of credit that a beneficiary may claim is \$10,000, ~~subject to the limitation in 15-30-2328(2)~~, and the credit must be claimed in the year in which the contribution is made. The credit may not be carried forward or carried back. (Terminates December 31, 2019--secs. 2 through 8, Ch. 317, L. 2013.)"

**Section 26.** Section 15-30-2337, MCA, is amended to read:

**"15-30-2337. Residential property tax credit for elderly Homeowner and renter income tax credit for older adults -- definitions.** As used in 15-30-2337 through 15-30-2341, the following definitions apply:

(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(2) "Claimant" means a person who is eligible to file a claim under 15-30-2338.

(3) "Department" means the department of revenue.

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

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

(6) "Homestead" means:

~~— (a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or~~

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

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

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

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

(9) (a) "Income" means, except as provided in subsection (9)(b), federal adjusted gross income, without

regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

- (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;
- (ii) the amount of capital gains excluded from adjusted gross income;
- (iii) alimony;
- (iv) support money;
- (v) nontaxable strike benefits;
- (vi) cash public assistance and relief;
- (vii) interest on federal, state, county, and municipal bonds; and
- (viii) all payments received under federal social security except social security income paid directly to a nursing home.

(b) For the purposes of this subsection (9), income is reduced by the taxpayer's basis.

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

(11) "Rent-equivalent tax paid" means 15% of the gross rent."

**Section 27.** Section 15-30-2341, MCA, is amended to read:

**"15-30-2341. Residential property tax credit for elderly Homeowner and renter income tax credit for older adults -- limitations -- denial of claim.** (1) Only one claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 is entitled to relief.

(2) ~~Except as provided in subsection (3), a claim for relief may not be allowed for any portion of property taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.~~

~~—(3) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not be is allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.~~

~~(4)~~(3) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed to the state. An

additional 10% may be added to the amount due as a penalty. The unpaid debt must bear interest from the date of the original payment of claim until paid, at the rate of 1% per month."

**Section 28.** Section 15-30-2364, MCA, is amended to read:

**"15-30-2364. Adoption tax credit -- limitations.** (1) There is allowed a tax credit against the tax imposed by 15-30-2103 or 15-30-2151 for the legal adoption of an eligible child for which the taxpayer qualifies for the credit for adoption expenses under section 23 of the Internal Revenue Code, 26 U.S.C. 23.

(2) The amount of the credit allowed under subsection (1) is equal to \$1,000 in the tax year the adoption is final. Only one credit is allowed for each eligible child. However, married taxpayers filing separately ~~on the same form~~ may allocate the credit between spouses.

(3) To claim the credit under this section, the taxpayer shall:

(a) include the name, age, and federal tax identification number, if known, of the eligible child on the tax return; and

(b) provide other information as required by the department, including identification of an agent assisting with the adoption.

(4) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to the 5 succeeding tax years. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first."

**Section 29.** Section 15-30-2501, MCA, is amended to read:

**"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions apply:

(1) (a) "Employee" means:

(i) an individual who performs services for another individual or an organization having the right to control the employee as to the services to be performed and as to the manner of performance;

(ii) an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision of the United States or Montana or any agency or instrumentality of the United States, the

state of Montana, or a political subdivision of the United States or Montana;

(iii) an officer of a corporation;

(iv) all classes, grades, or types of employees including minors and aliens, superintendents, managers, and other supervisory personnel.

(b) The term does not include a sole proprietor performing services for the sole proprietorship.

(2) "Employer" means:

(a) the person for whom an individual performs or performed any service, of whatever nature, as an employee of the person or, if the person for whom the individual performs or performed the services does not have control of the payment of wages for the services, the person having control of the payment of wages;

(b) any individual or organization that has or had in its employ one or more individuals performing services for it within this state, including:

(i) a state government and any of its political subdivisions or instrumentalities;

(ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability company, or domestic or foreign corporation;

(iii) a receiver, trustee, including a trustee in bankruptcy, or the trustee's successor; or

(iv) a legal representative of a deceased person; or

(c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance purposes, or under Title 39, chapter 71, for workers' compensation purposes.

(3) "Lookback period" means the 12-month period ending the preceding June 30.

(4) "Sole proprietor" means an individual doing business in a noncorporate form and includes the member of a single-member limited liability company that is a disregarded entity if the member is an individual.

(5) (a) Except as provided in subsection (5)(b), "wages" has the meaning provided in section 3401 of the Internal Revenue Code, 26 U.S.C. 3401.

(b) The term does not include:

~~(i) tips and gratuities exempt from taxation under 15-30-2110;~~

~~(ii) health insurance premiums attributed as income to an employee under federal law that are exempt from taxation under 15-30-2110;~~

~~(iii) unemployment compensation, including supplemental unemployment compensation treated as wages under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as~~

provided in 15-30-2101; or

— (iv) any amount paid a sole proprietor."

**Section 30.** Section 15-30-2512, MCA, is amended to read:

**"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax payments, at least:

- (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
- (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax year was a period of 12 months and if the individual filed a return for the tax year.

(b) Payment of estimated taxes under this section is not required if:

- (i) the combined tax liability of employer withholding and estimated tax for the current year is less than \$500 after reductions for credits and withholding;
- (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12 months, and if the individual was a citizen or resident of the United States throughout that tax year;
- (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that the department determines to constitute good cause; or
- (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year following the tax year in which the individual retired or became disabled.

(2) Estimated taxes must be paid in four installments according to one of the following schedules:

(a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on January 1, estimated tax payments are due on the following dates:

Installment	Date
First	April 15
Second	June 15
Third	September 15

Fourth January 15 of the following tax year

(b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on a date other than January 1, estimated tax payments are due on the following dates:

Installment	Date
First	15th day of the 4th month following the beginning of the tax year
Second	15th day of the 6th month following the beginning of the tax year
Third	15th day of the 9th month following the beginning of the tax year
Fourth	15th day of the month following the close of the tax year

(3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding installment must be proportionally changed so that the balance of the required annual payment is paid in equal installments over the remaining period of time.

(b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required. For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments, respectively. For estimated taxes required to be paid beginning with the third installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

(4) (a) If for any required installment the taxpayer determines that the installment payment is less than the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income installment.

(b) For any required installment, the annualized income installment is the applicable percentage described in subsection (4)(c) applied to the tax computed on the basis of annualized Montana taxable income in the tax year for the months ending before the due date for the installment less the total amount of any prior required installments for the tax year.

(c) For the purposes of this subsection (4), the applicable percentage is determined according to the following schedule:

Required Installment	Applicable Percentage
----------------------	-----------------------

First	22.5%
Second	45%
Third	67.5%
Fourth	90%

(d) A reduction in a required installment resulting from the application of an annualized income installment must be recaptured by increasing the amount of the next required installment, determined under subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount of the reduction until the amount has been recaptured.

(5) (a) If an estimated tax, an employer withholding tax, or a combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this chapter interest on the amount of the underpayment as provided in 15-1-216. The interest is computed on the amount of the underpayment, as determined in subsection (5)(b), for the period from the time the payment was due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made, whichever is earlier.

(b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the underpayment is the required installment amount less the installment amount paid, if any, on or before the due date for the installment.

(c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment must be credited against unpaid required installments in the order in which those installments are required to be paid.

~~(d) For a married taxpayer filing separately on the same form, the interest provided for in subsection (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on the taxpayer's return.~~

~~(e)~~(d) Interest may not be charged with respect to any underpayment of the fourth installment of estimated taxes if:

- (i) the taxpayer pays in full the amount computed on the return as payable; and
- (ii) the taxpayer files a return on or before the last day of the month following the close of the tax year referred to in subsection (2)(a) or (2)(b).

(6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3%



of the taxpayer's gross income, as ~~defined in 15-30-2104~~ determined for federal income tax purposes, from farming or ranching operations, or both.

(7) The department shall promulgate rules governing reasonable extensions of time for paying the estimated tax. An extension may not be for more than 6 months."

**Section 31.** Section 15-30-2602, MCA, is amended to read:

**"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits --inflation adjustment.** (1) ~~(a) For both resident and nonresident taxpayers, each single~~ If required to file a federal income tax return pursuant to the Internal Revenue Code, each individual, including each nonresident with Montana source income, and each estate or trust shall file ~~married individual not filing a joint return with a spouse and having a gross income for the tax year of more than \$3,560, as adjusted under the provisions of subsection (6), and married individuals not filing separate returns and having a combined gross income for the tax year of more than \$7,120, as adjusted under the provisions of subsection (6), are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross income amounts referred to in this subsection (1) must be increased by \$1,900, as adjusted under the provisions of 15-30-2114(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).~~

~~(b) A taxpayer that is not required to file a federal income tax return shall file a Montana return if the taxpayer has Montana taxable income after taking into consideration the additions and subtractions to federal taxable income in [section 1].~~

~~(2) In accordance with instructions set forth by the department, each taxpayer who is married and living with a husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with the husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax must be computed on the aggregate taxable income and, subject to 15-30-2646, the liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department consents.~~

~~(3)(2)~~ (2) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

~~(4)(3)~~ (3) All taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and

15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return provided for in 15-30-2512. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

~~(5)~~(4) If the department determines that the amount of tax due is greater than the amount of tax computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

~~————(6) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file a return.~~

~~(7)~~(5) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the ~~adjusted base year~~ Montana income tax structure for that tax year."

**Section 32.** Section 15-30-2605, MCA, is amended to read:

**"15-30-2605. Revision of return by department -- statute of limitations -- examination of records and persons.** (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.

(2) If a taxpayer does not file a return as required under this chapter, the department may, at any time, audit the taxpayer or estimate the Montana taxable income of the taxpayer from any information in its possession and, based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

(3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

(4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return that

violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due.

(5) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of Montana taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of the person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to the person or persons."

**Section 33.** Section 15-30-2606, MCA, is amended to read:

**"15-30-2606. Tolling of statute of limitations.** The running of the statute of limitations provided for under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619, the statute of limitations does not apply until 5 years from the date the federal changes become final or the amended federal return was filed. If the taxpayer omits from federal gross income, as defined and described in section 61 of the Internal Revenue Code, 26 U.S.C. 61, an amount properly includable as federal gross income and the amount is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does not apply for 2 additional years from the time specified in 15-30-2605."

**Section 34.** Section 15-30-2618, MCA, is amended to read:

**"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections ~~(8) and (9)~~ (7) and (8) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of

the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

~~(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.~~

~~(5)~~(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

~~(6)~~(5) Any offense against subsections (1) through ~~(5)~~ (4) is punishable by a fine not exceeding \$500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

~~(7)~~(6) This section may not be construed to prohibit the department from providing taxpayer return

information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

~~(8)~~(7) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

~~(9)~~(8) On written request to the director or a designee of the director, the department shall furnish:

~~(a)~~ to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

~~(b)~~(a) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

~~(e)~~(b) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

~~(d)~~(c) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

~~(e)~~(d) to the board of regents information required under 20-26-1111;

~~(f)~~(e) to the legislative fiscal analyst and the office of budget and program planning individual income tax

information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

~~(g)~~(f) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

~~(h)~~(g) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20."

**Section 35.** Section 15-30-3003, MCA, is amended to read:

**"15-30-3003. (Temporary) Montana farm and ranch risk management account -- deposits -- exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural business may ~~create~~ hold a Montana farm and ranch risk management account that is composed of contributions that were made to the account prior to January 1, 2016, as provided in this part, to use as a risk management tool for the individual's or family farm corporation's agricultural business. The number of risk management accounts that may be ~~created~~ held is limited to one for each individual or family farm corporation.

(2) ~~Deposits to the account may be excluded from adjusted gross income as provided in 15-30-2110 in an amount not to exceed the lesser of 20% of the taxpayer's net income attributable to agricultural business included in federal adjusted gross income or \$20,000 a year.~~ For the purposes of this section, a taxpayer is considered to have made a deposit to an account if the deposit is made:

- ~~\_\_\_\_\_ (a) during a the tax year beginning before January 1, 2016; or~~
- ~~\_\_\_\_\_ (b) for a specific tax year if it is made within 3 1/2 months after the close of the tax year.~~

(3) A deposit not distributed within 5 years is considered to have been distributed to the taxpayer as provided in 15-30-3005.

(4) A portion of a deposit distributed within 6 months of the date deposited is income in the year for which an exclusion was taken. The taxpayer shall file a return or amended return as necessary to report the income in the appropriate year. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

**Section 36.** Section 15-30-3004, MCA, is amended to read:

**"15-30-3004. (Temporary) Montana farm and ranch risk management account -- creation -- administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The trust must be created by written instrument.

~~(2) The trustee may not accept any deposit for any tax year in excess of the amount allowed as a deduction under 15-30-3003.~~

~~(3)~~(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months of the date of deposit.

~~(4)~~(3) The assets of the trust must consist entirely of cash or of obligations that have adequate stated interest and that pay the interest at least annually.

~~(5)~~(4) All income of the trust must be distributed currently to the grantor.

~~(6)~~(5) The assets of the trust may not be commingled with other property except in a common trust fund or common investment fund. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

**Section 37.** Section 15-30-3005, MCA, is amended to read:

**"15-30-3005. (Temporary) Montana farm and ranch risk management account -- distributions.** (1) Distributions from the account may be used for any purpose the taxpayer chooses.

(2) Distributions from an account:

(a) are first attributable to income and then to other deposits; and  
 (b) must be considered to be made from deposits in the order in which the deposits were made, beginning with the earliest deposits. Income is considered to be deposited on the date the income is received by the account.

(3) All distributions from the account are taxable unless:

(a) the deposit, or that portion of the deposit to which the distribution is attributable, was not excluded from ~~adjusted gross income~~ income in calculating Montana individual income taxes for the tax year the deposit was made; or

(b) the distribution has already been taxed because it was considered a distribution as provided in subsection (4).

(4) (a) (i) Amounts that are not distributed within the 5-year eligibility period established in subsection (4)(a)(ii) are considered to be distributed to the taxpayer on the last day of the tax year in which the fifth anniversary of the deposit occurs. The distribution is taxable, and a penalty equal to 10% of the tax due on the distributed amount is added to the tax as a penalty.

(ii) The 5-year eligibility period for withdrawal of a deposit without penalty is the due date, including extensions, for the filing of a tax return required by this chapter or, if the taxpayer files earlier, the date the taxpayer files the return for the tax year in which the fifth anniversary of the deposit occurs.

(b) At the end of the first disqualification period after a period in which the taxpayer was engaged in eligible agricultural business, the balance of the account is considered to be distributed to the taxpayer and is taxable to the taxpayer. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

**Section 38.** Section 15-30-3312, MCA, is amended to read:

**"15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder, member, or other owner who:

(a) is a nonresident individual, a nonresident estate, a nonresident trust, a foreign C. corporation, or a pass-through entity whose only Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other owner; and

(b) consents to be included in the filing.

(2) (a) Each participant's composite tax liability is the product obtained by:

(i) determining the tax that would be imposed, using the ~~rates~~ rate specified in 15-30-2103, on the sum obtained by subtracting the ~~allowable standard deduction for a single individual and one exemption allowance~~ basic standard deduction of an individual who is not married and who is not a surviving spouse or head of household, as determined under section 63(c)(2) of the Internal Revenue Code, 26 U.S.C. 63(c)(2), and the personal exemption for one individual, as determined under section 151(d) of the Internal Revenue Code, 26 U.S.C. 151(d), from the participant's share of the entity's income from all sources as determined for federal income tax purposes; and

(ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's income from



all sources for federal income tax purposes.

(b) A participant's share of the entity's income is the aggregate of the participant's share of the entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

(3) The composite tax is the sum of each participant's composite tax liability.

(4) The electing entity:

(a) shall remit the composite tax to the department;

(b) must be responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments and be subject to the underpayment interest as prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite return; and

(e) shall retain powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(5) The composite return must be made on forms the department prescribes and filed on or before the due date, including extensions, for filing the entity information return. The composite return is in lieu of an individual income tax return required under 15-30-2602 and 15-30-2604, a corporate income tax return required under 15-31-111, and an alternative corporate income tax return required under 15-31-403.

(6) The composite tax is in lieu of the taxes imposed under:

(a) 15-30-2103 and 15-30-2104;

(b) 15-31-101 and 15-31-121; and

(c) 15-31-403.

(7) The department may adopt rules that are necessary to implement and administer this section."

**Section 39.** Section 15-31-125, MCA, is amended to read:

**"15-31-125. Determination of tax credit.** A new or expanding manufacturing corporation may receive an income tax credit based on a percentage of wages paid to its new employees hired within this state prior to [the effective date of this section] for a period of 3 years as provided in this section. For the first 3 years of

operation of a new corporation or the first 3 years of expansion of an expanding corporation, a credit of 1% of the total new wages paid in this state, as wages are defined in 39-51-201, ~~may be~~ is allowed. In determining total wages for an expanding corporation, only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and number of jobs of the corporation in the 12-month period immediately preceding the expansion are averaged to determine eligibility for the credit."

**Section 40.** Section 15-31-127, MCA, is amended to read:

**"15-31-127. Department duties.** The department shall determine the eligibility of a corporation for this credit, promulgate rules, prepare forms, maintain records, and perform other duties necessary to carry out ~~15-31-124~~ 15-31-125 through 15-31-127."

**Section 41.** Section 15-31-131, MCA, is amended to read:

**"15-31-131. Credit for dependent care assistance and referral services.** (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 129(d)(2) through (d)(6) of the Internal Revenue Code, 26 U.S.C. 129(d)(2) through (d)(6).

(2) (a) The amount of the credit allowed under subsection (1) is 25% of the amount paid or incurred by the employer during the tax year, but the credit may not exceed \$1,575 of day-care assistance actually provided to or on behalf of the employee.

(b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (e)(4) of the Internal Revenue Code, 26 U.S.C. 21(e)(3) and (e)(4).

(c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.

(3) (a) In addition to the credit allowed under subsection (1), there is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the employer to provide information and referral services to assist employees of the employer employed within this state to obtain dependent care.

(b) The amount of the credit allowed under subsection (3)(a) is equal to 25% of the amount paid or incurred in the tax year.

(4) An amount paid or incurred during the tax year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (c)(2) of the Internal Revenue Code, 26 U.S.C. 129(c)(1) or (c)(2).

(5) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1):

- (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or
- (b) if the amount is paid or incurred for services not performed within this state.

(6) If the credit allowed under subsection (1) or (3) is claimed, the amount of any deduction allowed or allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.

~~\_\_\_\_\_ (7) The amount upon which the credit allowed under subsection (4) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15, chapter 30, part 25, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. Amounts excluded under this subsection do not qualify as expenses for which a deduction is allowed to the employee under 15-30-2131.~~

~~(8)~~(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

~~(9)~~(8) If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code, 26 U.S.C. 1361, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of

the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.

~~(4)~~(9) For purposes of the credit allowed under subsection (1) or (3):

(a) the definitions and special rules contained in section 129(e) of the Internal Revenue Code, 26 U.S.C. 129(e), apply to the extent applicable; and

(b) "employer" means an employer carrying on a business, trade, occupation, or profession in this state."

**Section 42.** Section 15-31-162, MCA, is amended to read:

**"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company credit for contribution to qualified endowment -- recapture of credit -- deduction included as income.** (1)

A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed to shareholders, partners, or members of a limited liability company in the same proportion used to report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or a member of a limited liability company may claim in a year is \$10,000, ~~subject to the limitations in 15-30-2328~~(2). The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(2) (a) If during any tax year a charitable gift is recovered by the small business corporation, partnership, or limited liability company, the entity shall include as income the amount deducted in any prior year that is attributable to the charitable gift.

(b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken. (Terminates December 31, 2019--secs. 2 through 8, Ch. 317, L. 2013.)"

**Section 43.** Section 15-32-104, MCA, is amended to read:

**"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103 ~~and 15-32-109~~ is limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel extraction or conventional hydroelectric development."

**Section 44.** Section 15-32-106, MCA, is amended to read:

**"15-32-106. Procedure for obtaining benefit of deduction or credit.** ~~The department of revenue shall provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of revenue shall approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy conservation or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction ~~or credit~~ involving energy generation to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days. The department of revenue may refer a deduction ~~or credit~~ involving energy conservation to the department of labor and industry for its advice, and the department of labor and industry shall respond within 60 days. The department of revenue may deny a deduction ~~or credit~~ that it finds to be impractical or ineffective."

**Section 45.** Section 15-61-202, MCA, is amended to read:

**"15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, ~~the amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an account and all interest or other income on that~~ the principal that was contributed to a medical care savings account prior to January 1, 2016, may be excluded from the ~~adjusted gross~~ Montana taxable income of the employee or account holder and ~~are~~ is exempt from taxation, in accordance with ~~15-30-2110(2)(j)~~ [section 1], as long as the principal and interest or other income is contained within the account or withdrawn only for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder. Any part of the principal or income, or both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than an eligible medical expense or the long-term care of the employee or account holder or a dependent of the employee or account holder.

(2) ~~An employee or account holder may exclude as an annual contribution in 1 year not more than \$3,000. There~~ For contributions that were made prior to January 1, 2016, there is no limitation on the amount of

funds and interest or other income on those funds that may be retained tax-free within an account.

~~———— (3) A deduction pursuant to 15-30-2131 is not allowed to an employee or account holder for an amount contributed to an account. An employee or account holder may not deduct pursuant to 15-30-2131 or exclude pursuant to 15-30-2110 an amount representing a loss in the value of an investment contained in an account.~~

~~———— (4) An employee or account holder may in 1 year deposit into an account more than the amount excluded pursuant to subsection (2) if the exemption claimed by the employee or account holder in the year does not exceed \$3,000. An employee or account holder who deposits more than \$3,000 into an account in a year may exclude from the employee's or account holder's adjusted gross income in accordance with 15-30-2110(2)(j) in a subsequent year any part of \$3,000 per year not previously excluded.~~

~~(5)(3)~~ The transfer of money in an account owned by one employee or account holder to the account of another employee or account holder within the immediate family of the first employee or account holder does not subject either employee or account holder to tax liability under this section. Amounts contained within the account of the receiving employee or account holder are subject to the requirements and limitations provided in this section.

~~(6)(4)~~ The employee or account holder who establishes the account is the owner of the account. An employee or account holder may withdraw money in an account and deposit the money in another account with a different or with the same account administrator without incurring tax liability.

~~(7)(5)~~ The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an employee or account holder does not subject the employee or account holder to tax liability.

~~(8)(6)~~ Within 30 days of being furnished proof of the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

**Section 46.** Section 15-61-203, MCA, is amended to read:

**"15-61-203. Withdrawal of funds from account for purposes other than medical expenses and long-term care.** (1) An employee or account holder may withdraw money from the individual's medical care savings account for any purpose other than an eligible medical expense or the long-term care of the employee or account holder or a dependent of the employee or account holder only on the last business day of the account

administrator's business year. Money withdrawn from an account pursuant to this subsection that had been excluded from taxation must be taxed as ordinary income of the employee or account holder.

(2) If the employee or account holder withdraws money from the account other than for eligible medical expenses or long-term care or other than on the last business day of the account administrator's business year, the administrator shall withhold from the amount of the withdrawal and, on behalf of the employee or account holder, pay as a penalty to the department of revenue an amount equal to 10% of the amount of the withdrawal. Payments made to the department pursuant to this section must be deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or account holder if it had been excluded from taxation.

(3) For the purposes of this section, "last business day of the account administrator's business year", as applied to an account administrator who is also the account holder or an employee, means the last weekday in December."

**Section 47.** Section 15-62-208, MCA, is amended to read:

**"15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that ~~reduced adjusted gross income under 15-30-2110(11)~~ were deducted from income in calculating Montana individual income taxes.

(2) For purposes of determining the portion of a recapturable withdrawal that reduced ~~adjusted gross income~~ Montana individual income taxes, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529(c)(3)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 529(c)(3)(A). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce ~~adjusted gross income~~ Montana individual income taxes, to the extent of those contributions, and then to contributions that reduced ~~adjusted gross income~~ Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced ~~adjusted gross income~~ Montana individual income taxes, to the extent of the contributions, and then to contributions that did not reduce ~~adjusted gross income~~ Montana individual income taxes.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the

withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's ~~adjusted gross income~~ Montana individual income taxes unless the contributor can demonstrate that all or a portion of the contributions did not reduce ~~adjusted gross income~~ Montana individual income taxes. ~~Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.~~

(5) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal or a withdrawal or distribution from an account that was opened after the later of:

- (a) April 30, 2001; or
- (b) the date that is 3 years prior to the date of the withdrawal or distribution.

(6) The department shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section."

**Section 48.** Section 15-63-202, MCA, is amended to read:

**"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed ~~annually~~ prior to January 1, 2016, by an account holder to an account and all interest or other income on the principal that was contributed prior to January 1, 2016, may be excluded from the ~~adjusted gross~~ Montana taxable income of the account holder and is exempt from taxation, in accordance with ~~15-30-2110(2)(k)~~ [section 1], as long as the principal and interest or other income is contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be excluded under



~~subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase of a single-family residence.~~

~~(2) (a) An account holder who files singly, head of household, or married filing separately may exclude as an annual contribution in 1 year up to \$3,000.~~

~~———— (b) An account holder who files jointly may exclude as annual contribution in 1 year up to \$6,000.~~

~~———— (c) There For contributions to principal that were made prior to January 1, 2016, there is no limitation on the amount of principal and interest or other income on the principal that may be retained tax-free within an account.~~

~~(d) An account holder may not contribute to the first-time home buyer savings account for a period exceeding 10 years.~~

~~———— (3) An account holder may not deduct pursuant to 15-30-2131 or exclude pursuant to 15-30-2110 an amount representing a loss in the value of an investment contained in an account.~~

~~———— (4) Each year, an account holder may deposit into an account more than the amount excluded pursuant to subsection (2) if the exemption claimed by the account holder in the year does not exceed the amount specified in subsection (2)(a) or (2)(b). An account holder who deposits more than the amount specified in subsection (2)(a) or (2)(b) into an account in a year may exclude from the account holder's adjusted gross income, in accordance with 15-30-2110(2)(k), in a subsequent year any part of the amount specified in subsection (2)(a) or (2)(b) per year not previously excluded.~~

~~———— (5) The transfer of money by a person other than the account holder to the account of an account holder does not subject the account holder to tax liability under this section. Amounts contained within the account of the receiving account holder are subject to the requirements and limitations provided in this section. The person other than the account holder who transfers money to the account is not entitled to the tax exemption under this section.~~

~~(6)(3) The account holder who establishes the account, individually or jointly, is the owner of the account. An account holder may withdraw money in an account and deposit the money in another account with a different account administrator or with the same account administrator without incurring tax liability.~~

~~(7)(4) The account holder shall use the money in the account for the eligible costs related to the purchase of a single-family residence within 10 years following the year in which the account was established. Any principal and income in the account not expended on eligible costs at the time of purchase of a single-family~~

residence or any principal or income remaining in the account on December 31 of the last year of the 10-year period must be taxed as ordinary income.

~~(8)~~(5) The amount of a disbursement of any assets of a first-time home buyer savings account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account holder does not subject the account holder to tax liability.

~~(9)~~(6) Within 30 days of being furnished proof of the death of the account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

**Section 49.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; section 7; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5, Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30, 2015.)"

**Section 50.** Section 19-2-1004, MCA, is amended to read:

**"19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909, the right of a person to any benefit or payment from a retirement system or plan and the money in the system or plan's pension trust fund is not:

- (1) subject to execution, garnishment, attachment, or any other process;
- (2) subject to ~~state~~, county, or municipal taxes except for:
  - ~~— (a) a benefit or annuity received in excess of the amount determined pursuant to 15-30-2110(2)(c); or~~
  - ~~— (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or~~

(3) assignable except as specifically provided in this chapter."

**Section 51.** Section 19-17-407, MCA, is amended to read:

**"19-17-407. Exemption from ~~taxation and legal process.~~** ~~(1) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.~~  
~~———(2) Benefits received under this part are not subject to execution, garnishment, attachment, or any other process."~~

**Section 52.** Section 19-18-612, MCA, is amended to read:

**"19-18-612. Protection of benefits from legal process and ~~taxation -- nonassignability.~~** ~~(1)~~ Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum assigned.

~~(2) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation."~~

**Section 53.** Section 19-19-504, MCA, is amended to read:

**"19-19-504. Protection of benefits from legal process and ~~taxation.~~** ~~(1)~~ Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-19-505.

~~(2) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation."~~

**Section 54.** Section 19-20-706, MCA, is amended to read:

**"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and

19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

- (1) exempted from any ~~state, county, or municipal tax of the state of Montana~~ except for:
  - ~~— (a) a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c);~~
  - or
  - ~~— (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-20-602;~~
- (2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and
- (3) unassignable except as specifically provided in this chapter."

**Section 55.** Section 19-21-212, MCA, is amended to read:

**"19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, contracts, benefits, and contributions under the university system retirement program and the earnings on the contributions are:

- (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c);~~ exempt from any ~~state, county, or municipal tax;~~
- (2) not subject to execution, garnishment, attachment, or other process;
- (3) not covered or assessable by an insurance guaranty association; and
- (4) unassignable except as specifically provided in the contracts."

**Section 56.** Section 33-22-2006, MCA, is amended to read:

**"33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for small employer health insurance premiums paid -- eligibility for small group coverage -- amounts.** (1) An employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit under this part if the employer and any related employers:

- (a) did not have more than the number of employees established for eligibility by the commissioner at

the time of registering for premium incentive payments or premium assistance payments or a tax credit under 33-22-2008;

(b) provide or will provide a group health plan that meets the requirements of creditable coverage for the employer's and any related employer's employees;

(c) do not have delinquent state tax liability owing to the department of revenue from previous years; and

(d) have been registered as eligible small employer participants by the commissioner as provided in 33-22-2008.

(2) In addition to the requirements in subsection (1), a small employer is eligible to apply for a tax credit under this part if the small employer and any related employers do not have any employees, not including an owner, partner, or shareholder of the business, who received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in the prior tax year.

(3) In addition to the requirements of subsections (1) and (2), an owner, partner, or shareholder of an eligible small employer who received more than \$75,000 in wages, as defined in 39-71-123, and those individuals' spouses who are employees are not eligible under this chapter for a tax credit for group health plan premiums paid by the eligible small employer for group health plan coverage for the individual or the individual's dependents.

(4) In addition to the requirements in subsection (1), an owner or employee is not eligible to apply for a premium assistance payment under this part if the owner or employee has a household income greater than 400% of the federal poverty level for the year in which an application or application renewal is made.

(5) Subject to the requirements of subsection (4), the small business health insurance pool may authorize a premium incentive payment for the premium share paid by an eligible small employer and related employers for a group health plan for:

(a) the owner or employee of the eligible small employer and related employers;

(b) a spouse of an owner or employee provided for in subsection (5)(a); or

(c) dependents of the owner or employee provided for in subsection (5)(a).

(6) An employee, including an owner, partner, or shareholder or any dependent of an employee, who is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance payment.

(7) The commissioner shall establish, by rule, the maximum number of employees that an employer may employ to be qualified as an eligible small employer under subsection (1). The maximum number may be different for eligible small employers seeking premium incentive payments and premium assistance payments than for eligible small employers seeking a tax credit. The number must be set to maximize the number of employees receiving coverage under this part. The commissioner may not change the maximum employee number more often than every 6 months. If the maximum number of allowable employees is changed, the change does not disqualify registered eligible small employers with respect to the tax year for which the eligible small employer has registered.

(8) Except as provided in subsection (3), an eligible small employer may claim a tax credit in the following amounts:

(a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is under 45 years of age; or

(ii) not more than \$125 each month for each employee and \$100 each month for each employee's spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is 45 years of age or older; and

(b) not more than \$40 each month for each dependent, other than the employee's spouse, if the eligible small employer is paying for coverage for the dependents, not to exceed two dependents of an employee in addition to the employee's spouse.

(9) An eligible small employer may not claim a tax credit:

(a) in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small group;

(b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or

(c) for premiums for which that reduced Montana taxable income under [section 1] or when a deduction is claimed under ~~45-30-2131~~ or 15-31-114.

(10) An eligible small employer may not claim a premium incentive payment in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small group."

**Section 57.** Section 33-27-101, MCA, is amended to read:

**"33-27-101. Short title.** Sections 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter may be cited as the "Independent Liability Fund Act"."

**Section 58.** Section 33-27-102, MCA, is amended to read:

**"33-27-102. Purpose.** The purpose of 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter is to create a means by which small businesses operating in Montana may establish independent liability funds to set aside assets or make investments to meet any liability claims that might be made against the small businesses by third parties."

**Section 59.** Section 33-27-103, MCA, is amended to read:

**"33-27-103. Definitions.** As used in 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter, the following definitions apply:

(1) "Fiscal year" means the 12-month period used by a particular small business in preparing and filing its Montana individual income tax, corporate income tax, or alternative corporate income tax return.

(2) "Independent liability fund" means a collection of money, assets, and investments that has been set aside by a small business to meet the needs of any liability claims, except workers' compensation claims, brought against it by third parties.

(3) "Liability claim" means any legal or extralegal action by a third party asserting a right to compensation for a wrong done to it by a small business with an independent liability fund.

(4) "Small business" means any commercial or nonprofit enterprise qualified to do business in the state and qualified as a small business under the criteria established by the federal small business administration on April 20, 1987.

(5) "Third party" means a person other than an employee or the management of a small business or of a subsidiary or closely related enterprise of a small business."

**Section 60.** Section 37-4-104, MCA, is amended to read:

**"37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased or a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to



practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided.

(2) A personal representative may not:

(a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the delivery of dental care;

(b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care;

(c) allow any person other than a dentist to supervise and control the selection, compensation, terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice;

(d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by a dentist or the dentist's practice; or

(e) limit or define the scope of services offered by the dentist.

(3) For the purposes of this section:

(a) "clinical" means having a significant relationship, whether real or potential, direct or indirect, to the actual rendering or outcome of dental care, the practice of dentistry, or the quality of dental care being rendered to a patient;

(b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in 45-30-2110~~ means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months; and

(c) "personal representative" of the estate of a deceased dentist has the same meaning as provided for the term in 72-1-103.

(4) The 12-month period provided for in subsection (1) begins when:

(a) the personal representative of the estate of a deceased dentist files a verified copy of the death certificate of the deceased with the department; or

(b) the personal representative of the disabled dentist files a verified copy of a document signed by a licensed physician that attests to the dentist's disability."

**Section 61.** Section 53-2-211, MCA, is amended to read:

**"53-2-211. Department to share eligibility data.** (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in ~~15-30-2618(9)(e)~~ 15-30-2618(8)(b).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance."

**Section 62.** Section 67-11-303, MCA, is amended to read:

**"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms that

it may determine, payable out of any revenue of the authority, including revenue derived from:

- (a) an airport or air navigation facility or facilities;
- (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or sources is pledged exceeds the amount of revenue to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any is pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this section, any bonds issued pursuant to this chapter by an authority may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a)~~.

(5) For the security of bonds, the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities.

(6) Subject to the conditions stated in this subsection, the governing body of any municipality having a population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by an authority in which the municipality is included, may by resolution covenant that in the event that at any time all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest then due, it shall, subject to 15-10-420, levy a general tax upon all of the taxable property in the municipality for

the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to occur within 1 year for the payment of principal and interest due on the bonds, it shall, subject to 15-10-420, levy a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the taxes are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that more than one municipality having a population in excess of 10,000 is included in an authority issuing bonds pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in anticipation of, a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may determine. The resolution must state the principal amount and purpose of the bonds and the substance of the covenant respecting deficiencies. A resolution may not be effective until the question of its approval has been submitted to the qualified electors of the municipality at a special election called for that purpose by the governing body of the municipality and a majority of the electors voting on the question have voted in favor of the resolution. The special election must be held in conjunction with a regular or primary election. The notice and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7, chapter 7, part 42, for an election called by cities and towns and as provided for county general obligation bonds in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors voting on the issue vote against approval of the resolution, the municipality may not make the covenant or levy a tax for the payment of deficiencies pursuant to this section, but the municipality or authority may issue bonds under this chapter payable solely from the sources referred to in subsection (1)."

**Section 63.** Section 70-9-803, MCA, is amended to read:

**"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (a) traveler's check, 15 years after issuance;
- (b) money order, 7 years after issuance;
- (c) stock or other equity interest in a business association or financial organization, including a security entitlement under Title 30, chapter 8, 5 years after the earlier of:

- (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the apparent owner; or

(ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(d) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent owner;

(e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value. A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the inflation factor defined in ~~15-30-2104~~. The amount considered abandoned for a person who sells more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

(h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(i) property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(j) property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(k) property held by a court, government, governmental subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

(l) wages or other compensation for personal services, 1 year after the compensation becomes payable;

(m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(n) property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution date;

(p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community in which the cooperative is located, 5 years after the distribution date; and

(q) all other property, 5 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(2) At the time that an interest is presumed abandoned under subsection (1), any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(4) An indication of an owner's interest in property includes:

(a) the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(c) the making of a deposit to or withdrawal from an account in a financial organization; and

(d) the payment of a premium with respect to a property interest in an insurance policy; however, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

(6) The presumption provided in subsection (1) does not apply to:

(a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses the refunds exclusively for educational purposes; or

(b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or civic purposes in the community in which the cooperative is located.

(7) For the purposes of this section, "inflation factor" means a number determined for each year by dividing the consumer price index for June of the year subject to adjustment by the consumer price index for June 2005."

**Section 64.** Section 75-2-103, MCA, is amended to read:

**"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination of those air contaminants.

(2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.

(3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere

with the enjoyment of life, property, or the conduct of business.

(4) "Associated supporting infrastructure" means:

- (a) electric transmission and distribution facilities;
- (b) pipeline facilities;
- (c) aboveground ponds and reservoirs and underground storage reservoirs;
- (d) rail transportation;
- (e) aqueducts and diversion dams;
- (f) devices or equipment associated with the delivery of an energy form or product produced at an energy

development project; or

(g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development project.

(5) "Board" means the board of environmental review provided for in 2-15-3502.

(6) (a) "Commercial hazardous waste incinerator" means:

- (i) an incinerator that burns hazardous waste; or
- (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

(9) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or

~~— (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~



to ~~15-32-701~~; or

~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

(10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

(11) "Hazardous waste" means:

(a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

(b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

(12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

(i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

(ii) space heaters that burn used oil;

(iii) wood-fired boilers; or

(iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

(13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.

The term includes:

(a) cultures and stocks of infectious agents;

(b) human pathological wastes;

(c) waste human blood or products of human blood;

(d) sharps;

(e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed to infectious agents during research;

(f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

(g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions from humans or animals.

(14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

(i) equipment associated with the well and used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the well; and

(ii) a group of wells under common ownership or control that produce oil or natural gas and that share common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the wells.

(b) The equipment referred to in subsection (15)(a) includes but is not limited to wellhead assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting tubing.

(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas.

(15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.

(16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer, parent corporation, or subsidiary corporation.

(17) "Small business stationary source" means a stationary source that:

(a) is owned or operated by a person who employs 100 or fewer individuals;

(b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

(c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.;

(d) emits less than 50 tons per year of an air pollutant;

(e) emits less than a total of 75 tons per year of all air pollutants combined; and

(f) is not excluded from this definition under 75-2-108(3).

(18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial

wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

(b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of environmental quality, or slash and forest debris regulated under laws administered by the department of natural resources and conservation."

**Section 65.** Section 75-5-103, MCA, is amended to read:

**"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Associated supporting infrastructure" means:

(a) electric transmission and distribution facilities;

(b) pipeline facilities;

(c) aboveground ponds and reservoirs and underground storage reservoirs;

(d) rail transportation;

(e) aqueducts and diversion dams;

(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or

(g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development project.

(2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface water that are adopted to protect the designated uses of a surface water body.

(b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that are adopted to protect human health.

(3) "Board" means the board of environmental review provided for in 2-15-3502.

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

(6) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.

(b) The term does not mean new data to be obtained as a result of department efforts.

(7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

(8) "Department" means the department of environmental quality provided for in 2-15-3501.

(9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

(10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.

(11) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or

~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or~~

~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

(12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether

or not those uses are included in the water quality standards.

(13) "High-quality waters" means all state waters, except:

(a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and

(b) surface waters that:

(i) are not capable of supporting any one of the designated uses for their classification; or

(ii) have zero flow or surface expression for more than 270 days during most years.

(14) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.

(15) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

(16) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.

(17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.

(18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.

(19) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.

(20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

(21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.

(22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a determination that base numeric nutrient standards cannot be achieved because of economic impacts or because of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in accordance with 75-5-313.

(23) "Nutrient work group" means an advisory work group, convened by the department, representing publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested parties that will advise the department on the base numeric nutrient standards, the development of nutrient standards variances, and the implementation of those standards and variances together with associated economic impacts.

(24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(25) "Outstanding resource waters" means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and approved by the legislature.

(26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

(27) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

(28) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

(29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

(30) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to

change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) The term does not include:

(i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules adopted by the board under this chapter;

(ii) activities conducted under this chapter that comply with the conditions imposed by the department in short-term authorizations pursuant to 75-5-308;

(iii) contamination of ground water within the boundaries of an underground mine using in situ coal gasification and operating in accordance with a permit issued under 82-4-221.

(c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

(31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

(32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(33) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

(35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance

with applicable water quality standards.

(36) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

- (a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or
- (b) documented adverse pollution trends.

(37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

(40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704.

**75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Associated supporting infrastructure" means:
  - (a) electric transmission and distribution facilities;



- (b) pipeline facilities;
- (c) aboveground ponds and reservoirs and underground storage reservoirs;
- (d) rail transportation;
- (e) aqueducts and diversion dams;
- (f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or
- (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development project.

(2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface water that are adopted to protect the designated uses of a surface water body.

(b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that are adopted to protect human health.

(3) "Board" means the board of environmental review provided for in 2-15-3502.

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

(6) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.

(b) The term does not mean new data to be obtained as a result of department efforts.

(7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

(8) "Department" means the department of environmental quality provided for in 2-15-3501.

(9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

(10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.

(11) (a) "Energy development project" means each plant, unit, or other development and associated

developments, including any associated supporting infrastructure, designed for or capable of:

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or
- ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or~~
- ~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

(12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.

(13) "High-quality waters" means all state waters, except:

- (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the board's classification rules; and
- (b) surface waters that:
  - (i) are not capable of supporting any one of the designated uses for their classification; or
  - (ii) have zero flow or surface expression for more than 270 days during most years.

(14) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.

(15) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

(16) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.

(17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.

(18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.

(19) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.

(20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

(21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the board.

(22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a determination that base numeric nutrient standards cannot be achieved because of economic impacts or because of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in accordance with 75-5-313.

(23) "Nutrient work group" means an advisory work group, convened by the department, representing publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested parties that will advise the department on the base numeric nutrient standards, the development of nutrient standards variances, and the implementation of those standards and variances together with associated economic impacts.

(24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(25) "Outstanding resource waters" means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and

approved by the legislature.

(26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

(27) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

(28) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

(29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

(30) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) The term does not include:

(i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules adopted by the board under this chapter;

(ii) activities conducted under this chapter that comply with the conditions imposed by the department in short-term authorizations pursuant to 75-5-308;

(iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11, part 1;

(iv) contamination of ground water within the boundaries of an underground mine using in situ coal gasification and operating in accordance with a permit issued under 82-4-221;

(c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

(31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or

other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

(32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(33) "Standard of performance" means a standard adopted by the board for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

(35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

(36) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

(37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated

to one of its existing or future point sources.

(40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704."

**Section 66.** Section 87-2-102, MCA, is amended to read:

**"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing resident hunting, fishing, and trapping licenses, the following provisions apply:

(1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined in ~~45-30-2115~~ subsection (1)(c), who resides in the member's Montana household, or a member of the armed forces of a foreign government attached to the regular armed forces of the United States is considered a resident for the purposes of this chapter if:

(i) the member was a resident of Montana under the provisions of subsection (4) at the time the member entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or

(ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in time of war. Reassignment to another state, United States territory, or country terminates Montana residency for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria

of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence" in that member's armed forces records does not determine the member's residency for purposes of this section.

(b) A member of the regular armed forces of the United States who is otherwise considered a Montana resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping privileges in another state or country.

(c) The term "dependent" means any of the following individuals over half of whose support was received from the member:

(i) a son or daughter of the member or a descendant of either;

(ii) a stepson or stepdaughter of the member;

(iii) a brother, sister, stepbrother, or stepsister of the member;

(iv) the father or mother of the member or an ancestor of either;

(v) a stepfather or stepmother of the member;

(vi) a son or daughter of a brother or sister of the member;

(vii) a brother or sister of the father or mother of the member;

(viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the member;

(ix) an individual who has as the individual's principal place of abode the home of the member and is a member of the member's household; or

(x) an individual who:

(A) is a descendant of a brother or sister of the father or mother of the member;

(B) for the calendar year under consideration, received institutional care required by reason of a physical or mental disability; and

(C) before receiving the institutional care, was a member of the same household as the member.

(d) For purposes of subsection (1)(c):

(i) the terms "brother" and "sister" include a brother or sister by the half blood;

(ii) in determining whether any of the relationships specified exist, a legally adopted child of an individual must be treated as a child of the individual by blood.

(2) A person who has physically resided in Montana as the person's principal or primary home or place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary home or place of abode.

(3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of this section by physically residing in Montana as the person's principal or primary home or place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident hunting, fishing, or trapping license.

(4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to be considered a resident for purposes of this section:

- (a) the person's principal or primary home or place of abode is in Montana;
- (b) the person files Montana state income tax returns as a resident if required to file;
- (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and operates in Montana;
- (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or trapping privileges in another state or country; and
- (e) if the person registers to vote, the person registers only in Montana.

(5) A student who is enrolled full-time in a postsecondary educational institution out of state and who would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2) or (3) is considered a resident for purposes of this section.

(6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within Montana, considered a resident for the purpose of making application for a fishing license as long as the person remains an enrollee in a Montana camp.

(7) A person who does not reside in Montana but who meets all of the following requirements is a resident for purposes of obtaining hunting and fishing licenses:

- (a) The person's principal employment is within this state and the income from this employment is the principal source of the applicant's family income.



(b) The person is required to pay and has paid Montana income tax in a timely manner and proper amount.

(c) The person has been employed within this state on a full-time basis for at least 12 consecutive months immediately preceding each application.

(d) The person's state of residency has laws substantially similar to this subsection (7).

(8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this section. The minor is considered a resident for purposes of this section regardless of whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship to the minor.

(9) A person is not considered a resident for the purposes of this section if the person:

(a) claims residence in any other state or country for any purpose; or

(b) is an absentee property owner paying property tax on property in Montana.

(10) A license agent is not considered a representative of the state for the purpose of determining a license applicant's residence status."

**Section 67.** Section 87-2-105, MCA, is amended to read:

**"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to 87-2-805(4), a hunting license may not be issued to a person who is born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection (4) or (6);

(b) a hunter safety course in any other state or province; or

(c) a Montana hunter safety and education course that qualifies the person for a provisional certificate as provided in 87-2-126.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's dependents, as defined in ~~45-30-2145~~ 87-2-102, who reside in the member's Montana household, unless the person authorized to issue the license determines proof of completion of a hunter safety course

approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

(5) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to any person successfully completing the course.

(6) The department may develop an adult hunter safety and education course.

(7) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

**Section 68. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 7-21-3701. Purpose of empowerment zone.
- 7-21-3702. Definitions.
- 7-21-3703. Empowerment zones -- creation.
- 7-21-3704. Criteria for empowerment zone.
- 7-21-3710. Tax credits for employers in empowerment zone.

- 7-21-3715. Rulemaking authority.
- 15-30-2110. Adjusted gross income.
- 15-30-2111. Nonresident and temporary resident taxpayers -- adjusted gross income.
- 15-30-2114. Exemptions -- inflation adjustment.
- 15-30-2115. General definition of dependent.
- 15-30-2116. Additional exemption for dependent child with disability -- physician's verification.
- 15-30-2117. Military salary, veterans' bonus, or death benefit -- exemptions.
- 15-30-2119. Net operating loss -- computation.
- 15-30-2131. Deductions allowed in computing net income.
- 15-30-2132. Standard deduction.
- 15-30-2133. Nondeductible items in computing net income.
- 15-30-2141. Independent liability fund -- deductibility.
- 15-30-2142. Income tax deduction for contribution to veterans' programs.
- 15-30-2143. Deduction for contributions to child abuse and neglect prevention program.
- 15-30-2144. Deposit of child abuse and neglect prevention program deductible contributions.
- 15-30-2152. Computation of income of estates or trusts -- exemption.
- 15-30-2301. Capital gains credit.
- 15-30-2320. Credit for alternative fuel motor vehicle conversion.
- 15-30-2356. Empowerment zone new employees -- tax credit.
- 15-31-124. New or expanded industry credit -- definitions.
- 15-31-134. Empowerment zone new employees -- tax credit.
- 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 15-31-163. Capital gain exclusion from sale of mobile home park.
- 15-31-172. Small business corporation -- deduction for donation of computer equipment to schools.
- 15-32-301. Purpose.
- 15-32-302. Definitions.
- 15-32-303. Deduction for purchase of Montana-produced organic or inorganic fertilizer.
- 15-32-401. Purpose and statement of policy.
- 15-32-402. Commercial or net metering system investment credit -- alternative energy systems.

- 15-32-404. Carryover of credit.
- 15-32-405. Exclusion from other tax incentives.
- 15-32-406. Separation of credit portion.
- 15-32-407. Rules authorized.
- 15-32-501. Purpose and statement of policy.
- 15-32-502. Definitions.
- 15-32-503. Exploration incentive credit.
- 15-32-504. Procedure for requesting and certifying credit.
- 15-32-505. Application of credit.
- 15-32-506. Credit carryover.
- 15-32-507. Credit limitation.
- 15-32-508. Credit assignment.
- 15-32-509. Record of credit use.
- 15-32-510. Deduction for donation of exploration information.
- 15-32-701. Oilseed crush facility -- tax credit.
- 15-32-702. Biodiesel or biolubricant production facility tax credit.
- 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.
- 15-62-207. Deductions for contributions.
- 33-2-724. Empowerment zone new employees -- tax credit.

**Section 69. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 15-30-2319. Credit for energy-conserving investments.
- 15-32-109. Credit for energy-conserving expenditures.
- 15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.
- 15-32-201. Amount of credit -- to whom available.
- 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 15-32-203. Department to make rules.

**Section 70. Transition -- carryover of credits.** A credit allowed a taxpayer prior to January 1, 2016,

under the provisions of law in effect prior to January 1, 2016, that may be carried forward for a specified number of years is not impaired by [this act], and a taxpayer may claim the credit for the taxes specified for the period established in the section at the time the credit was first allowed. This section applies to all tax credits that are removed or repealed by [this act], including but not limited to 7-21-3710, 15-30-2356, 15-32-115, 15-32-201, 15-32-202, 15-32-402, 15-32-404, 15-32-503, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-701, 15-32-702, 15-32-703, or 33-2-724.

**Section 71. Transition.** (1) As used in this section, the following definitions apply:

(a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's Montana taxable income related to transition items provided in subsection (3).

(b) "Transition item" means any difference arising prior to January 1, 2016, from a difference in federal and Montana income tax laws in:

- (i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;
- (ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense;

or

(iii) the basis of an asset or liability that will not, after December 31, 2015, increase or decrease a taxpayer's federal taxable income.

(2) An adjustment to Montana taxable income may not be made to take transition items into account except as provided in subsection (3).

(3) On or before the due date, including extensions, of a return for the tax year ending after December 31, 2015, and before January 1, 2017, a taxpayer may, on forms prescribed by the department, file an election to make a transition adjustment to Montana taxable income. The election must specify and account for all transition items, including but not limited to the following:

(a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2015, and before January 1, 2017, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana

carryover is larger than the federal carryover.

(b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of the Internal Revenue Code that is carried over to a tax year ending after December 31, 2015, and before January 1, 2017, and if the amount of the federal carryover is not the same amount as the Montana carryover:

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA pursuant to section 408A(d)(3) of the Internal Revenue Code but included all the income in the taxpayer's Montana income tax return, the sum of the balance of the federal deferred amount as of January 1, 2016, is a negative adjustment to the taxpayer's Montana taxable income.

(d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers and net operating loss carrybacks under section 172(a) of the Internal Revenue Code in a tax year ending after December 31, 2015, and before January 1, 2017, if the taxpayer's federal net operating loss is different from the taxpayer's Montana net operating loss as of December 31, 2015, no adjustment to the taxpayer's Montana taxable income may be made.

(e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c):

(i) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis; and

(ii) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana

adjusted basis is lower than the federal adjusted basis.

(g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year beginning after December 31, 2014, resulted in a reduction of Montana income tax liability, the refund is, to the extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the taxpayer's Montana taxable income.

(4) The department of revenue is authorized to adopt rules and require facts and information to be reported that it considers necessary to administer the transition adjustment provided in this section.

**Section 72. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 21, and the provisions of Title 15, chapter 30, part 21, apply to [section 1].

(2) [Sections 2 through 11] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 2 through 11].

**Section 73. Coordination instruction.** If House Bill No. 359 and [this act] are passed and approved and if [this act] contains a section that repeals 15-30-2110, then [section 1(4) of Senate Bill No. 171] must be amended as follows:

(4) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for ~~that~~ the following tax year, rounding the result to the nearest \$10. The resulting amount is effective for that following tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

**Section 74. Coordination instruction.** If Senate Bill No. 399 and [this act] are passed and approved and if [this act] contains a section that repeals 15-30-2110, then [section 1(3) of Senate Bill No. 171] must be amended to insert subsection (3)(i) that reads as follows:

(i) a reduction for contributions to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7). The reduction must be the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction,

not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in federal taxable income under this subsection (3)(i) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident.

**Section 75. Coordination instruction.** If both House Bill No. 359 and [this act] are passed and approved and if both contain a section that amends 15-30-2101, then the sections amending 15-30-2101 are void and 15-30-2101 must be amended as follows:

**"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

- ~~(1)~~ "Base year structure" means the following elements of the income tax structure:
  - ~~— (a) the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June 30 of the taxable year;~~
  - ~~— (b) the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June 30 of the taxable year;~~
  - ~~— (c) the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect on June 30 of the taxable year.~~
- ~~(2)~~(1) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.
- ~~(3)~~(2) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:
  - (a) that is treated as an association for federal income tax purposes;
  - (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and
  - (c) that is not a disregarded entity.
- ~~(4)~~(3) "Department" means the department of revenue.
- ~~(5)~~(4) "Disregarded entity" means a business entity:
  - (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in



United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or

(b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code, ~~26 U.S.C. 1361(b)(3)~~.

~~(6)~~(5) "Dividend" means:

(a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

(b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

(6) "Federal adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62.

(7) "Federal taxable income", when referring to an individual, means taxable income as defined and described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or estate, means taxable income as defined and described in sections 641 through 692 of the Internal Revenue Code, 26 U.S.C. 641 through 692.

~~(7)~~(8) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(8)~~(9) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in 15-31-101.

~~(9)~~(10) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

~~(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.~~

(11) "Head of household" means a head of household as defined and described in section 2(b) of the Internal Revenue Code, 26 U.S.C. 2(b).

~~(11)~~(12) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the previous tax year by the consumer price index for June ~~2005~~ 2015.

~~(12)~~(13) "Information agents" includes all individuals and entities acting in whatever capacity, including

lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(13)~~(14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(15) "Joint return" means one return made jointly by a married individual with that individual's spouse.

~~(14)~~(16) "Knowingly" is as defined in 45-2-101.

~~(15)~~(17) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in 35-8-102.

~~(16)~~(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

~~(17)~~(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- (a) a resident taxpayer on a lottery ticket; or
- (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(20) "Married individual" means a married individual as defined and described in section 7703 of the Internal Revenue Code, 26 U.S.C. 7703.

~~(18)~~(21) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.

(x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;

(xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;

(xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

(xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:

(A) derived from a trade, business, occupation, or profession carried on in the state;

(B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or

(C) taken into account while a resident of the state;

- (xiv) social security benefits received or accrued while a resident of the state;
- (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;
- (xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and
- (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

(b) The term does not include:

- (i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or
- (ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(22) "Montana taxable income" means federal taxable income as determined for federal income tax purposes and adjusted as provided in [section 1 of Senate Bill No. 171].

~~(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.~~

~~(20)~~(23) "Nonresident" means a natural person who is not a resident.

~~(24)~~(24) "Paid", ~~for the purposes of the deductions and credits under this chapter,~~ means paid or accrued

or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting ~~upon the basis of which the~~ used to compute federal taxable income ~~is computed under this chapter.~~

~~(22)~~(25) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

~~(23)~~(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

~~(24)~~(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

~~(25)~~(28) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, ~~{~~26 U.S.C. 401}, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

~~(26)~~(29) "Purposely" is as defined in 45-2-101.

~~(27)~~(30) "Received", ~~for the purpose of computation of taxable income under this chapter,~~ means received or accrued, and the term "received or accrued" must be construed according to the method of accounting ~~upon the basis of which the~~ used to compute federal taxable income ~~is computed under this chapter.~~

~~(28)~~(31) "Resident" applies only to natural persons~~(31)~~ and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though

temporarily absent from the state and who has not established a residence elsewhere.

~~(29)~~(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

~~(30)~~(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(34) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the Internal Revenue Code, 26 U.S.C. 2(a).

~~(34)~~(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

~~(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.~~

~~(33)~~(36) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."

**Section 76. Coordination instruction.** If both House Bill No. 359 and [this act] are passed and approved and if both contain a section that amends 15-30-2103, then the sections amending 15-30-2103 are void and 15-30-2103 must be amended as follows:

**"15-30-2103. Rate of tax.** (1) ~~There~~ Except as provided in subsection (2), there must be levied, collected, and paid for each tax year upon the Montana taxable income of each taxpayer subject to this tax, ~~after making allowance for exemptions and deductions as provided in this chapter;~~ a tax on the brackets of taxable income as follows:

- ~~(a) on the first \$2,300 of taxable income or any part of that income, 1%;~~
- ~~(b) on the next \$1,800 of taxable income or any part of that income, 2%;~~
- ~~(c) on the next \$2,100 of taxable income or any part of that income, 3%;~~
- ~~(d) on the next \$2,200 of taxable income or any part of that income, 4%;~~
- ~~(e) on the next \$2,400 of taxable income or any part of that income, 5%;~~
- ~~(f) on the next \$3,100 of taxable income or any part of that income, 6%;~~
- ~~(g) on any taxable income in excess of \$13,900 or any part of that income, 6.9%.~~

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first \$41,000 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$41,000 or any part of that income, 6.1%;

(b) for every head of household:

(i) on the first \$30,750 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$30,750 or any part of that income, 6.1%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.1%;

(d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:

(i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.1%.

(2) The tax rates in subsection (1) are reduced by 1.5% for a taxpayer's net capital gain income, as shown on the taxpayer's individual income tax return filed pursuant to 15-30-2602.

(3) In applying the rates in effect under subsection (1) and the rate reduction for net capital gain income under subsection (2), Montana taxable income is divided into an ordinary income category and a net capital gain category. The rate of tax applied toward each category is calculated as follows:

(a) Ordinary income is taxed first by applying the 4.7% rate up to the limit of the 4.7% rate bracket determined under subsection (1) and at the 6.1% rate to the extent that ordinary income exceeds the 4.7% rate bracket.

(b) Net capital gain income is taxed after applying the rates in subsection (1) to all ordinary income as provided in subsection (3)(a), and the total amount of ordinary income subject to tax in subsection (3)(a) is the starting point for determining the rates that are applied toward net capital gain income. The rate of tax applied toward net capital gain income is calculated as follows:

(i) If the total amount of Montana taxable income is less than or equal to the amount of income subject to tax at the 4.7% rate bracket determined under subsection (1), then net capital gain income is taxed at a 3.2% rate.

(ii) If the total amount of ordinary income is less than the amount of income subject to tax at the 4.7% rate

bracket determined under subsection (1) and the total amount of Montana taxable income exceeds the amount of income subject to tax at the 4.7% rate bracket determined under subsection (1), then all ordinary income is subject to tax at the 4.7% rate bracket and net capital gain income is taxed as follows:

(A) The ordinary income subject to tax in this subsection (3)(b)(ii) is subtracted from the amount of income subject to tax at the 4.7% rate bracket under subsection (1), and the difference from this calculation equals the amount of net capital gain income taxed at a 3.2% rate.

(B) All remaining net capital gain income that remains after applying the tax rates to the ordinary income and net capital gain income in subsection (3)(b)(ii)(A) is taxed at a 4.6% rate.

(iii) If ordinary income equals or exceeds the amount of income subject to tax at the 6.1% rate bracket under subsection (1), then all net capital gain income is taxed at a 4.6% rate.

~~(2)~~(4) (a) By November 1 of each year, the department shall multiply the bracket amount amounts contained in subsection (1) by the inflation factor for that the following tax year and round the cumulative brackets to the nearest;

(i) \$100 for the joint bracket under subsection (1)(a);

(ii) \$25 for the head of household bracket under subsection (1)(b); and

(iii) \$50 for the separate return brackets under subsections (1)(c) and (1)(d).

(b) The resulting adjusted brackets are effective for that following tax year and must be used as the basis for imposition of the tax in subsection (1) of this section.

(5) For the purposes of this section, the term "ordinary income" means Montana taxable income less net capital gain income."

**Section 77. Coordination instruction.** If both House Bill No. 359 and [this act] are passed and approved and if both contain a section that amends 15-30-2602, then the section amending 15-30-2602 in House Bill No. 359 is void.

**Section 78. Coordination instruction.** If both Senate Bill No. 399 and [this act] are passed and approved, then [section 11 of Senate Bill No. 399] must be amended as follows:

**"NEW SECTION. Section 11. Deductions for contributions.** An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's ~~adjusted gross~~ federal taxable income, in



accordance with ~~15-30-2110(12)~~ [section 1 of Senate Bill No. 171], by the total amount of the contributions, but not more than \$3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident."

**Section 79. Coordination instruction.** If both Senate Bill No. 399 and [this act] are passed and approved, then [section 12 of Senate Bill No. 399] must be amended as follows:

"NEW SECTION. **Section 12. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that reduced ~~adjusted gross~~ federal taxable income under ~~15-30-2110(12)~~ [section 1 of Senate Bill No. 171].

(2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross income, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529A(c)(3) of the Internal Revenue Code, 26 U.S.C. 529A(c)(3). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced adjusted gross income, to the extent of those contributions, and then to contributions that did not reduce adjusted gross income.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department of revenue may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's adjusted gross income unless the contributor can demonstrate that

all or a portion of the contributions did not reduce adjusted gross income. Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.

(5) The department of revenue shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section.

(6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal."

**Section 80. Coordination instruction.** If Senate Bill No. 378 and [this act] are both passed and approved and if [this act] repeals 15-30-2117, then [section 1(3)(b) of Senate Bill No. 171] is amended as follows:

(b) (i) salary received from the armed forces by residents who entered into active duty from Montana and are serving on active duty in the regular armed forces;

(ii) salary received by residents of Montana for active duty in the national guard as provided in subsection (4);

**Section 81. Coordination instruction.** If Senate Bill No. 378 and [this act] are both passed approved and if [this act] repeals 15-30-2117, then [section 1 of Senate Bill No. 171] is amended to insert subsection (4) that reads as follows:

(4) For the purposes of subsection (3)(b)(ii), "active duty" means duty performed under an order issued to a national guard member pursuant to:

(a) Title 10 U.S.C.; or

(b) Title 32 U.S.C. for a homeland defense activity, as defined in Title 32 U.S.C. 901, or a contingency operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland defense activity or contingency operation.

**Section 82. Instructions to code commissioner -- coordination with repealed code sections.** The code commissioner shall:

(1) strike subsection or code section references in [section 1 of House Bill No. 154] when the subsection or code section references relate to tax credits that are repealed on or before December 31, 2016, in [this act];

and

(2) make any corresponding changes in [House Bill No. 154] to reflect the renumbering.

**Section 83. Instruction to code commissioner -- amend internal references in coordinated sections.** If Senate Bill No. 399 and [this act] are passed and approved, the code commissioner shall amend [section 1(3)(f) of Senate Bill No. 171] to include the internal reference to subsection (3)(i).

**Section 84. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 85. Effective date.** (1) Except as provided in subsections (2) through (4), [this act] is effective January 1, 2016.

(2) [Sections 2 through 11, 26, 27, 49, 72, and 84 through 87] are effective on passage and approval.

(3) [Section 69] is effective December 31, 2016.

(4) [Sections 21, 43, and 44] are effective January 1, 2017.

**Section 86. Applicability -- retroactive applicability.** (1) Except as provided in subsection (2), [this act] applies to tax years beginning after December 31, 2015.

(2) [Sections 2 through 11, 26, 27, and 49] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2014.

**Section 87. Termination.** [Sections 20, 26, and 27] terminate December 31, 2016.

- END -

I hereby certify that the within bill,  
SB 0171, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

SENATE BILL NO. 171

INTRODUCED BY B. TUTVEDT, B. HOVEN

AN ACT GENERALLY REVISING TAXATION OF INCOME, INCLUDING THE CORPORATE INCOME TAX; REQUIRING THE TAXATION OF INDIVIDUALS, PARTNERSHIPS, AND SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND ESTATES, TO RELATE THE STATE INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO INCLUDE CERTAIN INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO EXCLUDE CERTAIN INCOME; ELIMINATING MOST INDIVIDUAL INCOME TAX DEDUCTIONS; ELIMINATING CERTAIN INDIVIDUAL INCOME TAX CREDITS; REVISING CERTAIN INDIVIDUAL INCOME TAX CREDITS; ELIMINATING CERTAIN CORPORATE INCOME TAX DEDUCTIONS AND CREDITS; REVISING INDIVIDUAL INCOME TAX RATES SUBJECT TO A REDUCTION FOR NET CAPITAL GAIN INCOME; PROVIDING A TRANSITION FOR CREDITS THAT ARE SUBJECT TO A CARRYFORWARD; PROVIDING A TRANSITION FOR DIFFERENCES IN FEDERAL AND MONTANA INCOME TAX LAWS; REENACTING THE BIG SKY ON THE BIG SCREEN ACT AND MAKING PERMANENT THE AVAILABILITY AND USE OF TAX CREDITS; PROMOTING THE MOTION PICTURE AND TELEVISION INDUSTRIES AND RELATED MEDIA IN MONTANA BY PROVIDING TAX INCENTIVES FOR FILMING AND FOR DEVELOPING MAGAZINE ADVERTISING IN MONTANA; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR EMPLOYING MONTANA RESIDENTS; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR QUALIFYING EXPENDITURES MADE IN MONTANA; REQUIRING A PRODUCTION COMPANY TO APPLY TO THE DEPARTMENT OF COMMERCE FOR STATE CERTIFICATION OF A PRODUCTION TO QUALIFY FOR THE TAX CREDITS; REQUIRING AN APPLICATION AND AN APPLICATION FEE FOR A PRODUCTION COMPANY TO CLAIM TAX CREDITS FOR A STATE-CERTIFIED PRODUCTION; REQUIRING THAT THE APPLICATION FEE BE USED FOR ADMINISTERING THE TAX CREDITS; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-1312, 7-14-1133, 7-14-1636, 7-34-2416, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104, 15-30-2113, 15-30-2151, 15-30-2153, 15-30-2328, 15-30-2329, 15-30-2337, 15-30-2341, 15-30-2501, 15-30-2512, 15-30-2602, 15-30-2605, 15-30-2606, 15-30-2618, 15-30-2364, 15-30-3003, 15-30-3004, 15-30-3005, 15-30-3312, 15-31-125, 15-31-127, 15-31-131, 15-31-162, 15-32-104, 15-32-106, 15-61-202, 15-61-203, 15-62-208, 15-63-202, 17-7-502, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 33-22-2006, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 53-2-211, 67-11-303,

70-9-803, 75-2-103, 75-5-103, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 7-21-3701, 7-21-3702, 7-21-3703, 7-21-3704, 7-21-3710, 7-21-3715, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2115, 15-30-2116, 15-30-2117, 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144, 15-30-2152, 15-30-2301, 15-30-2319, 15-30-2320, 15-30-2356, 15-31-124, 15-31-134, 15-31-137, 15-31-163, 15-31-172, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-301, 15-32-302, 15-32-303, 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-701, 15-32-702, 15-32-703, 15-62-207, AND 33-2-724, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION DATE.