

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN EXCESS PROFITS TAX ON PUBLIC UTILITIES
5 THAT GENERATE PROFITS GREATER THAN AN ESTABLISHED RETURN ON EQUITY; ESTABLISHING A
6 RATE FOR THE TAX; PROVIDING THAT THE TAX REVENUE BE USED FOR LOW-INCOME ENERGY
7 ASSISTANCE; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROHIBITING THE TAX FROM
8 AUTOMATICALLY BEING PASSED ON TO RATEPAYERS; PROVIDING THE DEPARTMENT OF REVENUE
9 WITH RULEMAKING AUTHORITY; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING
10 AUTHORITY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2618, 15-31-114, 15-
11 31-511, AND 69-3-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
12 DATE."

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

15
16 **NEW SECTION. Section 1. Excess profits tax imposed on public utilities.** (1) There is a tax on
17 the excess profits of public utilities, calculated as provided in subsections (2) and (3).

18 (2) (a) A public utility is considered to have excess profits when the public utility's return on equity as
19 established in an annual report in accordance with [section 2(2)] is greater than 9%.

20 (b) The department of revenue, in cooperation with the public service commission, shall adopt rules
21 necessary for the uniform determination of excess profits.

22 (3) (a) The tax on excess profits is an amount equal to 75% of the revenue that is over 9%.

23 (b) The tax on excess profits must be calculated on a return to be provided by the department. The
24 return must be filed with and the tax must be paid to the department based on a timeline determined by the
25 department.

26 (4) A public utility may not recover the excess profits tax collected under [sections 1 through 10] in
27 customer rates or in accordance with 69-3-308.

28 (5) For the purposes of this section, "public utility" means any public utility regulated by the

1 commission pursuant to Title 69, chapter 3, that provides electricity or natural gas for sale to customers and
2 that has restructured in accordance with Title 69, chapter 8.

3
4 **NEW SECTION. Section 2. Deposit of tax -- public service commission reporting.** (1) The excess
5 profits tax collected under [sections 1 through 10] must, after providing an allowance for payment of refunds
6 and overpayments, be deposited in the universal low-income energy assistance fund established in 69-8-
7 412(1)(b).

8 (2) (a) A public utility shall file an annual report with the public service commission to establish an
9 annual return on equity.

10 (b) After the commission determines the annual return on equity established in subsection (2)(a), the
11 commission shall provide the determination to the department of revenue.

12 (c) The commission may adopt rules to administer this subsection (2).

13
14 **NEW SECTION. Section 3. Returns -- payment -- authority of department.** (1) (a) A public utility
15 required to collect and pay to the department the tax imposed by [sections 1 through 10] shall keep records,
16 render statements, make returns, and comply with the provisions of [sections 1 through 10] and the rules
17 prescribed by the department. Each return or statement must include the information required by the rules of
18 the department.

19 (b) For the purpose of determining compliance with the provisions of [sections 1 through 10], the
20 department is authorized to examine or cause to be examined any books, papers, records, or memoranda
21 relevant to making a determination of the amount of tax due, whether the books, papers, records, or
22 memoranda are the property of or in the possession of the public utility filing the return or another person. In
23 determining compliance, the department may use statistical sampling and other sampling techniques consistent
24 with generally accepted auditing standards. The department may also:

- 25 (i) require the attendance of a person having knowledge or information relevant to a return;
- 26 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
- 27 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is
- 28 or may be jeopardized because of delay;

1 (iv) take testimony on matters material to the determination; and

2 (v) administer oaths or affirmations.

3 (2) Pursuant to rules established by the department, returns may be computer-generated and
4 electronically filed.

5
6 **NEW SECTION. Section 4. Examination of return -- adjustments -- delivery of notices and**
7 **demands.** (1) If the department determines that the amount of tax due is different from the amount reported,
8 the amount of tax computed on the basis of the examination conducted pursuant to [section 3] constitutes the
9 tax to be paid.

10 (2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess
11 must be paid to the department within 30 days after notice of the amount and demand for payment is mailed or
12 delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211. If
13 the amount of the tax found due by the department is less than that reported as due on the return and has been
14 paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the public utility
15 making the return.

16 (3) The notice and demand provided for in this section must contain a statement of the computation of
17 the tax and interest and must be:

18 (a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the
19 taxpayer's last-known address; or

20 (b) served on the taxpayer personally.

21 (4) A taxpayer filing an objection to the demand for payment is subject to and governed by the
22 uniform dispute review procedure provided in 15-1-211.

23
24 **NEW SECTION. Section 5. Penalties and interest for violation.** (1) (a) A public utility who fails to
25 file a return as required by [section 1] must be assessed a penalty as provided in 15-1-216. The department
26 may waive the penalty as provided in 15-1-206.

27 (b) A public utility who fails to file the return required by [section 1] and to pay the tax before the due
28 date must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty

1 pursuant to 15-1-206.

2 (2) A public utility who purposely fails to pay the tax when due must be assessed an additional
3 penalty as provided in 15-1-216.

4

5 NEW SECTION. **Section 6. Authority to collect delinquent taxes.** (1) (a) The department shall
6 collect taxes that are delinquent as determined under [sections 1 through 10].

7 (b) If a tax imposed by [sections 1 through 10] or any portion of the tax is not paid when due, the
8 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

9 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has
10 expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the
11 state, except wages subject to the provisions of 25-13-614 and retirement benefits.

12 (3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset
13 by the department.

14 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required
15 before funds are available for offset.

16

17 NEW SECTION. **Section 7. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or
18 delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the return and
19 tax were originally due.

20 (2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the
21 deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216
22 must be added to the amount of the deficiency.

23

24 NEW SECTION. **Section 8. Limitations.** (1) Except in the case of a public utility who purposely or
25 knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of
26 [sections 1 through 10], a deficiency may not be assessed or collected with respect to a month or quarter for
27 which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally
28 served on the taxpayer within 5 years from the date on which the return was filed. For the purposes of this

1 section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

2 (2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax,
3 the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be
4 assessed at any time prior to the expiration of the period consented to.

5
6 **NEW SECTION. Section 9. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as a
7 result of overpayment of taxes collected under [sections 1 through 10] must be filed within 5 years of the date
8 on which the return was due, without regard to any extension of time for filing.

9 (2) (a) Interest on an overpayment must be paid or credited at the same rate as the interest rate
10 charged on unpaid taxes as provided in 15-1-216.

11 (b) Except as provided in subsection (2)(c), interest must be paid from the date on which the return
12 was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the
13 processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary
14 information.

15 (c) The department is not required to pay interest if:

- 16 (i) the overpayment is refunded or credited within 6 months of the date on which a claim was filed; or
- 17 (ii) the amount of overpayment and interest does not exceed \$1.

18

19 **NEW SECTION. Section 10. Administration -- rules.** The department shall:

20 (1) administer and enforce the provisions of [sections 1 through 10];

21 (2) cause to be prepared and distributed forms and information that may be necessary to administer
22 the provisions of [sections 1 through 10]; and

23 (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of
24 [sections 1 through 10].

25

26 **Section 11.** Section 15-30-2618, MCA, is amended to read:

27 **"15-30-2618. (Temporary) Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-
28 106, 17-7-111, and subsections (7) through (9) of this section, in accordance with a proper judicial order, or as

1 otherwise provided by law, it is unlawful to divulge or make known in any manner:

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

4 (b) any federal return or federal return information disclosed on any return or report required by rule of
5 the department or under this chapter.

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

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

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

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

14 (3) This section does not prohibit:

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

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

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

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

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

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

5 (7) This section may not be construed to prohibit the department from providing taxpayer return
6 information and information from employers' payroll withholding reports to:

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

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

11 (c) the department of public health and human services to verify, as required under 53-6-133, the
12 income reported by applicants for medical assistance.

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

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

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

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

28 (c) to the department of labor and industry:

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

5 (ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer
6 and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;

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

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

11 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
12 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
13 and program planning must be the same as the information provided to the legislative fiscal analyst.

14 (g) to the department of transportation farm income information based on the most recent income tax
15 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has
16 been given as provided in 15-70-430. The information obtained by the department of transportation is subject to
17 the same restrictions on disclosure as are individual income tax returns.

18 (h) to the department of commerce tax information about a taxpayer whose debt is assigned to the
19 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
20 information provided to the department of commerce must be used for the purposes of preventing and detecting
21 fraud or abuse and determining eligibility for grants or loans.

22 (i) to the public service commission, information necessary for the implementation of [sections 1
23 through 10]; and

24 (j) to the superintendent of public instruction information required under 20-9-905. (Terminates June
25 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019; subsection (9)(~~h~~) (j) terminates December
26 31, 2023--sec. 33, Ch. 457, L. 2015.)

27 **15-30-2618. (Effective July 1, 2025, on occurrence of contingency) Confidentiality of tax**
28 **records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in

1 accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known
2 in any manner:

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

5 (b) any federal return or federal return information disclosed on any return or report required by rule of
6 the department or under this chapter.

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

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

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

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

15 (3) This section does not prohibit:

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

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

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

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

28 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the

1 department orders them to be destroyed.

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

6 (7) This section may not be construed to prohibit the department from providing taxpayer return
7 information and information from employers' payroll withholding reports to:

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

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

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

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

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

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

27 (c) to the department of labor and industry:

28 (i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under

1 the unemployment compensation and workers' compensation programs, information on whether a taxpayer
2 who is the subject of an ongoing investigation by the department of labor and industry is an employee, an
3 independent contractor, or self-employed; and

4 (ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer
5 and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;

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

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

10 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
11 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
12 and program planning must be the same as the information provided to the legislative fiscal analyst.

13 (g) to the department of transportation farm income information based on the most recent income tax
14 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has
15 been given as provided in 15-70-430. The information obtained by the department of transportation is subject to
16 the same restrictions on disclosure as are individual income tax returns.

17 (h) to the department of commerce tax information about a taxpayer whose debt is assigned to the
18 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
19 information provided to the department of commerce must be used for the purposes of preventing and detecting
20 fraud or abuse and determining eligibility for grants or loans.

21 (i) to the public service commission, information necessary for the implementation of [sections 1
22 through 10]; and

23 (j) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(i)
24 (j) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

25

26 **Section 12.** Section 15-31-114, MCA, is amended to read:

27 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the
28 following deductions are allowed from the gross income received by the corporation within the year from all

1 sources:

2 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the
3 maintenance and operation of its business and properties, including reasonable allowance for salaries for
4 personal services actually rendered, subject to the limitation contained in this section, and rentals or other
5 payments required to be made as a condition to the continued use or possession of property to which the
6 corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries
7 paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations
8 are taxed on income derived from outside the state, salaries of officers paid in connection with securing the
9 income are deductible.

10 (b) (i) all losses actually sustained and charged off within the year and not compensated by
11 insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property
12 used in the trade or business. The allowance is determined according to the provisions of section 167 of the
13 Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation must be the
14 same as the elections made for federal income tax purposes. A deduction is not allowed for any amount paid
15 out for any buildings, permanent improvements, or betterments made to increase the value of any property or
16 estate, and a deduction may not be made for any amount of expense of restoring property or making good the
17 exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is
18 not allowed on a title plant as defined in 33-25-105(15).

19 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
20 according to the provisions of 15-31-119.

21 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
22 for depletion and for depreciation of improvements. The reasonable allowance must be determined according to
23 the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal
24 Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible
25 drilling expenses for corporate income tax purposes must be the same as the elections made for federal
26 income tax purposes.

27 (d) the amount of interest paid within the year on its indebtedness incurred in the operation of the
28 business from which its income is derived. Interest may not be allowed as a deduction if paid on an

1 indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business
2 unless the income from the property or business would be taxable under this part.

3 (e) (i) taxes paid within the year, except the following:

4 (A) taxes imposed by this part;

5 (B) taxes assessed against local benefits of a kind tending to increase the value of the property
6 assessed;

7 (C) taxes on or according to or measured by net income or profits imposed by authority of the
8 government of the United States;

9 (D) taxes imposed by any other state or country upon or measured by net income or profits; and

10 (E) taxes imposed on the excess profits of public utilities as provided in [section 1].

11 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school
12 district, or municipality of this state.

13 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

14 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that
15 qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

16 (ii) The public service commission may not allow in the rate base of a regulated corporation the
17 inclusion of contributions made under this subsection.

18 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
19 annuity is a qualified charitable gift annuity as defined in 33-20-701.

20 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-
21 209, 81-7-118, or 81-7-201.

22 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
23 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
24 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
25 postsecondary school located in Montana if:

26 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
27 substantially completed;

28 (b) the property is not transferred by the donee in exchange for money, other property, or services;

1 and

2 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
3 property and representing that the use and disposition of the property will be in accordance with the provisions
4 of subsection (2)(b).

5 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
6 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
7 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
8 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
9 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that is
10 not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
11 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal
12 Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered,
13 apply. A regulated investment company is not allowed a deduction for dividends received as defined in sections
14 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
15 amended or renumbered."

16

17 **Section 13.** Section 15-31-511, MCA, is amended to read:

18 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with
19 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

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

22 (b) any federal return or information in or disclosed on a federal return or report required by law or
23 rule of the department under this chapter.

24 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter
25 may not be ordered to produce any of them or evidence of anything contained in them in any administrative
26 proceeding or action or proceeding in any court, except:

27 (i) in an action or proceeding in which the department is a party under the provisions of this chapter;

28 or

1 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions
2 of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or
3 proceeding.

4 (b) If the production of a return, report, or information contained in them is ordered, the court shall
5 limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent
6 to the action or proceeding.

7 (3) This section does not prohibit:

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

10 (b) the publication of statistics prepared in a manner that prevents the identification of particular
11 returns, reports, or items from returns or reports;

12 (c) the inspection of returns and reports by the attorney general or other legal representative of the
13 state in the course of an administrative proceeding or litigation under this chapter;

14 (d) access to information under subsection (4);

15 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
16 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
17 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
18 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by
19 an investigation of the income or return of a corporation. The director of revenue may not furnish that
20 information to a person representing the United States or another state unless the United States or the other
21 state grants substantially similar privileges to an officer of this state charged with the administration of this
22 chapter.

23 (4) On written request to the director or a designee of the director, the department shall:

24 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished
25 to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in
26 subsection (1);

27 (b) provide corporate income tax and alternative corporate income tax information, including any
28 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided

1 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.

2 The information furnished to the legislative fiscal analyst and the office of budget and program planning is
 3 subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

4 (c) provide to the department of commerce tax information about a taxpayer whose debt is assigned
 5 to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
 6 information provided to the department of commerce must be used for the purposes of preventing and detecting
 7 fraud or abuse and determining eligibility for grants or loans.

8 (d) furnish to the superintendent of public instruction information required under 20-9-905;

9 (e) exchange with the department of labor and industry taxpayer and apprentice information
 10 necessary to implement 15-30-2357, 15-31-173, and 39-6-109; ~~and~~

11 (f) provide the department of public health and human services with the information necessary to
 12 verify, as required under 53-6-133, the income reported by an applicant for medical assistance; and

13 (g) exchange with the public service commission information necessary to implement [sections 1
 14 through 10].

15 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
 16 public employee is convicted of violating this section, the person is dismissed from office or employment and
 17 may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the
 18 case of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,
 19 2023--sec. 33, Ch. 457, L. 2015; subsection (4)(f) terminates June 30, 2025, on occurrence of contingency--
 20 sec. 48, Ch. 415, L. 2019.)"

21

22 **Section 14.** Section 69-3-308, MCA, is amended to read:

23 **"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate**

24 **adjustment and tracking for taxes and fees.** (1) A public utility may separately disclose in a customer's bill
 25 the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

26 (2) (a) (i) [Except as provided in 15-72-601,] and [section 1(4)], the commission shall allow a public
 27 utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state
 28 and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule

1 changes must include:

2 (A) adjustments for the net change in federal and state income tax liability caused by the deductibility
3 of state and local taxes and fees;

4 (B) retroactive tax adjustments; and

5 (C) adjustments related to the resolution of property taxes paid under protest.

6 (ii) The rate schedules must include provisions for annual rate adjustments, including both tax
7 increases and decreases.

8 (b) The amended rates must automatically go into effect on January 1 following the date of change in
9 taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

10 (c) The amended rate schedule must be filed with the commission on or before the effective date of
11 the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the
12 commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public
13 utility to address any errors or omissions including, if necessary, any refunds due customers.

14 (d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval
15 on the part of the commission.

16 (e) A public utility may challenge an order issued by the commission under subsection (2)(c) in
17 accordance with the provisions of 69-3-401 through 69-3-405."

18

19 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 10] are intended to be
20 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 10].

21

22 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

23

24 **NEW SECTION. Section 17. Applicability.** [This act] applies to sales of electricity for the calendar
25 quarter beginning on or after July 1, 2021.

26

- END -