

HOUSE BILL NO. 545
INTRODUCED BY M. PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CREDIT AGAINST INDIVIDUAL AND CORPORATE INCOME TAXES FOR A PERCENTAGE OF EXPENDITURES TO CONDUCT AN ENERGY AUDIT ON BUILDINGS USED IN BUSINESS AND FOR EXPENDITURES ON EQUIPMENT AND GOODS TO IMPLEMENT THE ENERGY AUDIT; ALLOWING CREDIT FOR A PERCENTAGE OF THE AUDIT EXPENDITURE AND IMPLEMENTING EXPENDITURE IN THE SUCCEEDING 4 YEARS IF ENERGY USE DECREASES EACH YEAR; AMENDING SECTION 15-32-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for business energy audit cost.** (1) As provided in this section, a taxpayer may take a credit against the taxpayer's tax liability under chapter 30 or 31 for a percentage of the taxpayer's expenditure for having an energy audit conducted on buildings owned by the taxpayer that are used for commercial, industrial, or agricultural purposes.

(2) (a) The amount of the credit is 20% of the taxpayer's expenditure for the energy audit in the year in which the audit was conducted if the audit includes a reliable baseline of energy used and a clear methodology for quantifying energy used in subsequent years.

(b) In each of the succeeding 4 years, if the taxpayer has reduced the energy use of the audited building by at least 5% from the previous year, the taxpayer is entitled to a credit of an additional 20% of the taxpayer's expenditure for the energy audit. The taxpayer shall, on a form developed in cooperation with the department of environmental quality, substantiate the energy reduction required under this subsection (2)(b). The substantiation must comport with the audit conducted under subsection (2)(a). The department may refer questions regarding whether a taxpayer's energy reduction qualifies under this subsection (2)(b) to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days.

(3) The credit authorized by this section may not be carried forward except as provided in subsection (2)(b) and may not be claimed for any part of an expenditure that was financed or provided by a state, federal, or private energy conservation grant or program.

NEW SECTION. Section 2. Credit for property purchased to implement business energy audit.

(1) As provided in this section, a taxpayer may take a credit against the taxpayer's tax liability under chapter 30 or 31 for a percentage of the taxpayer's expenditure for equipment and goods purchased to implement an energy audit meeting the requirements of [section 1].

(2) (a) The amount of the credit is 20% of the taxpayer's expenditure for equipment and goods purchased to implement the energy audit that are made within 1 year after the audit was conducted pursuant to [section 1].

(b) In each of the succeeding 4 years, if the taxpayer has reduced the energy use of the audited building by at least 5% from the previous year, the taxpayer is entitled to a credit of an additional 20% of the taxpayer's expenditure for equipment and goods purchased to implement the energy audit. The taxpayer shall, on a form developed in cooperation with the department of environmental quality, substantiate the energy reduction required under this subsection (2)(b). The substantiation must comport with the audit conducted under [section 1 (2)(a)]. The department may refer questions regarding whether a taxpayer's energy reduction qualifies under this subsection (2)(b) to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days.

(3) The credit authorized by this section may not be carried forward except as provided in subsection (2)(b) and may not be claimed for any part of an expenditure that was financed or provided by a state, federal, or private energy conservation grant or program.

Section 3. 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, [section 1], and [section 2] 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."

NEW SECTION. Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 32, part 1, and the provisions of Title 15, chapter 32, part 1, apply to [sections 1 and 2].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. Retroactive applicability. [This act] applies retroactively, within the

meaning of 1-2-109, to tax years beginning after December 31, 2006.

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