SENATE BILL NO. 252

INTRODUCED BY R. ERICKSON

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE CAPITAL GAINS CREDIT, THE CREDIT FOR ALTERNATIVE FUEL MOTOR VEHICLE CONVERSION, THE CREDIT FOR CONTRIBUTIONS TO UNIVERSITY SYSTEM OR PRIVATE COLLEGE FOUNDATIONS, THE CREDITS FOR CONTRIBUTIONS TO QUALIFIED ENDOWMENTS, THE RESIDENTIAL PROPERTY TAX CREDIT TO THE ELDERLY, THE CREDIT FOR PRESERVATION OF HISTORIC PROPERTY, THE EMPOWERMENT ZONE NEW EMPLOYEE TAX CREDIT, THE QUALIFIED RESEARCH TAX CREDIT, THE ADOPTION TAX CREDIT, THE CREDIT FOR DAY-CARE FACILITIES, THE CREDIT FOR EXPENSE OF CARING FOR CERTAIN ELDERLY FAMILY MEMBERS, THE CREDIT FOR PROVIDING DISABILITY INSURANCE FOR EMPLOYEES, THE CREDIT FOR HEALTH INSURANCE PREMIUMS BY SMALL EMPLOYERS, THE CREDIT FOR DEPENDENT CARE ASSISTANCE AND REFERRAL, AND THE CREDIT FOR PROVIDING TEMPORARY EMERGENCY LODGING FOR INDIVIDUAL INCOME TAXES FOR TAX YEARS 2011 AND 2012; REQUIRING RULEMAKING; AMENDING SECTIONS 15-30-2301, 15-30-2320, 15-30-2326, 15-30-2328, 15-30-2329, 15-30-2340, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364, 15-30-2365, 15-30-2366, 15-30-2367, 15-30-2368, 15-30-2373, AND 15-30-2381, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-30-2301, MCA, is amended to read:

"15-30-2301. Capital gains credit. An individual taxpayer is allowed a credit against the taxes imposed by 15-30-2103 in an amount equal to ~~1%~~ <u>1.8%</u> of the taxpayer's net capital gains for tax years ~~2005~~ <u>2011</u> and ~~2006~~ <u>2012</u> and 2% of the taxpayer's net capital gains for <u>all other</u> tax years beginning after 2006, as shown on the taxpayer's individual income tax return filed pursuant to 15-30-2602. The credit allowed under this section may not exceed the taxpayer's income tax liability."

Section 2. Section 15-30-2320, MCA, is amended to read:

"15-30-2320. Credit for alternative fuel motor vehicle conversion. (1) (a) Except as provided in subsection (1)(b), an individual, a corporation, a partnership, or a small business corporation as defined in 15-30-3301 is allowed a tax credit against taxes imposed by 15-30-2103 or 15-31-101 for equipment and labor costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

(b) A seller of alternative fuel may not receive a credit for converting its own vehicles to the alternative fuel that it sells.

(2) (a) ~~The~~ Except as provided in subsection (2)(b), the maximum credit a taxpayer may claim in a year under this section is an amount equal to 50% of the equipment and labor costs incurred but the credit may not exceed:

~~(a)~~(i) $500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

~~(b)~~(ii) $1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

(b) For taxes imposed by 15-30-2103, for tax years 2011 and 2012, the rate under subsection (2)(a) is 45%, the maximum credit allowed under subsection (2)(a)(i) is $450, and the maximum credit allowed under subsection (2)(a)(ii) is $900.

(3) For the purposes of this section, "alternative fuel" means:

(a) natural gas;

(b) liquefied petroleum gas;

(c) liquefied natural gas;

(d) hydrogen;

(e) electricity; or

(f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any combination of them.

(4) (a) The credit allowed under this section may not exceed the taxpayer's income tax liability.

(b) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

Section 3. Section 15-30-2326, MCA, is amended to read:

"15-30-2326. Credit for contributions to university system or private college foundations. (1) (a) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, is allowed a tax credit against taxes imposed by 15-30-2103 ~~or 15-31-101~~ in an amount equal to 9% for tax years 2011 and 2012 and 10% for all other tax years and for taxes imposed by 15-31-101 in an amount equal to 10% of the aggregate amount of charitable contributions made by the taxpayer during the year to any of the general endowment funds of the Montana university system foundations or a general endowment fund of a Montana private college or its foundation.

(b) The maximum credit that a taxpayer may claim for taxes imposed by 15-30-2103 in a year for tax years 2011 and 2012 is $450 and for all other tax years the maximum credit is $500 a year. The maximum credit that a taxpayer may claim for taxes imposed by 15-31-101 in a year under this section is $500.

(c) The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

(3) (a) For the purposes of this section, "foundation" means a nonprofit organization that is created exclusively for the benefit of any unit of the Montana university system or a Montana private college and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

(b) For the purposes of this section, "Montana private college" means a nonprofit private educational institution:

(i) whose main campus and primary operations are within the state; and

(ii) that offers baccalaureate degree level education and is accredited for that purpose by a national or regional accrediting agency recognized by the board of regents of higher education."

Section 4. 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 36% for tax years 2011 and 2012 and 40% for all other tax years and for taxes imposed by 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 $9,000 in tax years 2011 and 2012 for taxes imposed by 15-30-2103 and $10,000 for taxes imposed by 15-31-101 and by 15-30-2103 in all tax years other than 2011 and 2012. 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) 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) 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 corporation license 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, 2013--sec. 7, Ch. 4, L. 2005; secs. 2, 3, 4, 7(2), Ch. 208, L. 2007.)"

Section 5. 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 $9,000 in tax years 2011 and 2012 and $10,000 in all other tax years, 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, 2013--secs. 2, 3, Ch. 208, L. 2007.)"

Section 6. Section 15-30-2340, MCA, is amended to read:

"15-30-2340. Residential property tax credit for elderly -- computation of relief. The amount of the tax credit granted under the provisions of 15-30-2337 through 15-30-2341 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax billed less the deduction specified in subsection (4).

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax billed on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4).

(4) Property tax billed and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
$0 - $999	$0
$1,000 - $1,999	$0
$2,000 - $2,999	the product of .0066 times the household income for tax years 2011 and 2012 and .006 times the household income for all other tax years
$3,000 - $3,999	the product of .0176 times the household income for tax years 2011 and 2012 and .016 times the household income for all other tax years
$4,000 - $4,999	the product of .0264 times the household income for tax years 2011 and 2012 and .024 times the household income for all other tax years
$5,000 - $5,999	the product of .0308 times the household income for tax years 2011 and 2012 and .028 times the household income for all other tax years
$6,000 - $6,999	the product of .0352 times the household income for tax years 2011 and 2012 and .032 times the household income for all other tax years
$7,000 - $7,999	the product of .0385 times the household income for tax years 2011 and 2012 and .035 times the household income for all other tax years
$8,000 - $8,999	the product of .0429 times the household income for tax years 2011 and 2012 and .039 times the household income for all other tax years
$9,000 - $9,999	the product of .0462 times the household income for tax years 2011 and 2012 and .042 times the household income for all other tax years
$10,000 - $10,999	the product of .0495 times the household income for tax years 2011 and 2012 and .045 times the household income for all other tax years
$11,000 - $11,999	the product of .0528 times the household income for tax years 2011 and 2012 and .048 times the household income for all other tax years
$12,000 & over	the product of .0550 times the household income for tax years 2011 and 2012 and .050 times the household income for all other tax years

(5) For a claimant whose household income is $35,000 or more but less than $45,000, the amount of the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage figure according to the following table:

Gross household income	Percentage of credit allowed
$35,000 - $37,500	36% for tax years 2011 and 2012 and 40% for all other tax years
$37,501 - $40,000	27% for tax years 2011 and 2012 and 30% for all other tax years
$40,001 - $42,500	18% for tax years 2011 and 2012 and 20% for all other tax years
$42,501 - $44,999	9% for tax years 2011 and 2012 and 10% for all other tax years
$45,000 or more	0%

(6) The credit granted may not exceed $900 for tax years 2011 and 2012 and $1,000 for all other tax years.

(7) Relief under 15-30-2337 through 15-30-2341 is a credit against the claimant's Montana individual income tax liability for the claim period. If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no income taxable under this chapter."

Section 7. Section 15-30-2342, MCA, is amended to read:

"15-30-2342. (Temporary) Credit for preservation of historic property. (1) There is allowed as a credit against the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151. For tax years 2011 and 2012, the credit allowed under this section is limited to 90% of the credit determined under 15-31-151(1)(b).

(2) (a) As an alternative to the credit allowed in subsection (1), there is allowed as a credit against the taxes imposed by 15-30-2103 an amount equal to 18% in tax years 2011 and 2012 and 20% in all other tax years of the cost of creating the conservation easement and the diminution in the value of a historically significant property, including buildings and structures, that may result from a contract that places a conservation easement on the property if:

(i) the conservation easement holder is a qualified private organization as defined in 76-6-104;

(ii) the owner of the property is obligated by the contract creating the easement to maintain and preserve the property to retain its historical significance and characteristics for a period of not less than 29 years; and

(iii) the state historic preservation officer, provided for in 2-15-1512, verifies that a property is listed on the national register of historic places or that the property is historically valuable.

(b) For the purposes of this section, property is historically valuable if the property has, as certified by the state historic preservation office, significant qualities reflecting American history, architecture, engineering, or culture that was achieved prior to the last 50 years and the property possesses integrity of location, design, setting, materials, and workmanship and:

(i) is associated with events that have made a significant contribution to the broad patterns of Montana's or the nation's history;

(ii) is associated with the lives of persons significant in our past;

(iii) embodies the distinctive characteristics of a type, period, or method of construction, represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

(iv) has yielded, or may be likely to yield, information important in history.

(c) In addition to any of the tax credit allowed in subsection (2)(a), the owner of a historically significant property, including buildings and structures, that is the subject of a conservation easement contract may take as a credit against the taxes imposed by 15-30-2103 an amount equal to 20% of the amount spent by the owner for the direct cost of the protection and the preservation of the property if the preservation efforts are approved as reasonable and necessary by the conservation easement holder. The tax credit may not exceed $25,000 a year.

(3) The maximum tax credit that may be taken under subsection (2) for each historically significant property is <u>$135,000 in tax years 2011 and 2012 and</u> $150,000 <u>for all other tax years</u>.

(4) The credit allowed by subsection (2) 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 subsection (2) 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 6 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.

(5) A person may not take a credit against taxes due in any 1 year under both subsection (1) and (2).

(6) The credit allowed in subsection (1) may not be allocated between spouses unless the property is used by a small business corporation or a partnership in which they are shareholders or partners. (Terminates December 31, 2011--sec. 3, Ch. 538, L. 2001.)

15-30-2342. (Effective January 1, 2012) Credit for preservation of historic buildings. (1) There is allowed as a credit against the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151. For tax years 2011 and 2012, the credit allowed under this section is limited to 90% of the credit determined under 15-31-151(1)(b).

(2) The credit may not be allocated between spouses unless the property is used by a small business corporation or a partnership in which they are shareholders or partners."

Section 8. Section 15-30-2356, MCA, is amended to read:

"15-30-2356. Empowerment zone new employees -- tax credit. (1) There is a credit for taxes due under 15-30-2103 for an employer for each new employee at a business in an empowerment zone created pursuant to Title 7, chapter 21, part 37. The taxpayer must be certified by the department of labor and industry to be eligible to receive the credit as provided in 7-21-3710.

(2) The amount of the credit for each qualifying employee is:

1st year of employment	$450 for tax years 2011 and 2012 and $500 for all other tax years
2nd year of employment	$900 for tax years 2011 and 2012 and $1,000 for all other tax years
3rd year of employment	$1,350 for tax years 2011 and 2012 and $1,500 for all other tax years

(3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year."

Section 9. Section 15-30-2358, MCA, is amended to read:

"15-30-2358. Qualified research tax credit. There is a credit against taxes otherwise due under this chapter allowable for qualified research. The credit must be computed and administered as provided in 15-31-150; however, for tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 15-31-150."

Section 10. 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 $900 if the adoption is final in tax years 2011 or 2012 or $1,000 ~~in the~~ if the adoption is final in any other 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 11. Section 15-30-2365, MCA, is amended to read:

"15-30-2365. Credit for day-care facilities. There is a credit against the taxes otherwise due under this chapter allowable to an employer based on the amounts paid or incurred during the tax year by the employer to acquire, construct, reconstruct, renovate, or otherwise improve real property to be used primarily as a day-care facility. The credit must be computed in accordance with the provisions of 15-31-133; however, for tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 15-31-133."

Section 12. Section 15-30-2366, MCA, is amended to read:

"15-30-2366. Credit for expense of caring for certain elderly family members. (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 65 years of age; or

(ii) has been determined to be disabled by the social security administration; and

(c) has a family income of $15,000 or less for an unmarried individual and $30,000 or less for a married individual for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the gross income, including all nontaxable income, of the individual or, in the case of a married individual, the gross income, including all nontaxable income, of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services, personal-care attendant services and care in a long-term care facility, as defined in 50-5-101, that is licensed by the department of public health and human services, homemaker services, adult day care, respite care, or health care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) premiums paid for long-term care insurance coverage for a qualifying family member.

(5) The percentage amount of credit allowable under this section is:

<u>(a) for tax years 2011 and 2012 for a taxpayer whose adjusted gross income does not exceed $25,000, 27% of qualified elderly care expenses;</u>

<u>(b) for tax years 2011 and 2012 for a taxpayer whose adjusted gross income exceeds $25,000, the greater of:</u>

<u>(i) 18% of qualified elderly care expenses; or</u>

<u>(ii) 27% of qualified elderly care expenses, less 1% for each $1,800 or fraction of $1,800 by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000;</u>

~~(a)~~<u>(c)</u> <u>for tax years other than 2011 and 2012</u> for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses; or

~~(b)~~<u>(d)</u> <u>for tax years other than 2011 and 2012</u> for a taxpayer whose adjusted gross income exceeds $25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction of $2,000 by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) (i) for tax years 2011 and 2012, reduced by $1.10 for each dollar of the adjusted gross income over $45,000 for a taxpayer whose adjusted gross income exceeds $45,000;

(ii) for tax years other than 2011 and 2012, reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) (i) for tax years 2011 and 2012, limited to $4,500 per qualifying family member in a taxable year and to $9,000 total for two or more family members in a taxable year;

(ii) for tax years other than 2011 and 2012, limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections."

Section 13. Section 15-30-2367, MCA, is amended to read:

"15-30-2367. Tax credit for providing disability insurance for employees. There is a credit against the taxes otherwise due under this chapter allowable to an employer for the amount of premiums for disability insurance paid by the employer for the employer's employees. The tax credit must be computed in accordance with the provisions of 15-31-132; however, for tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 15-31-132."

Section 14. Section 15-30-2368, MCA, is amended to read:

"15-30-2368. Tax credit for health insurance premiums paid -- eligible small employers -- pass-through entities. (1) There is a tax credit, determined under Title 33, chapter 22, part 20, for eligible small employers who are individuals against the taxes imposed in 15-30-2103 for qualifying premiums paid by the eligible small employer for coverage of eligible employees and eligible employees' spouses and dependents under a group health plan as defined in 33-22-2002. <u>For tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 33-22-2006.</u>

(2) If the employer is an S. corporation, the shareholders may claim a pro rata share of the tax credit. If the employer is a partnership, the credit may be claimed by the partners in the same proportion used to report the partnership's income or loss for Montana income tax purposes."

Section 15. Section 15-30-2373, MCA, is amended to read:

"15-30-2373. 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. The credit must be computed in accordance with the provisions of 15-31-131<u>; however, for tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 15-31-131</u>.

(2) 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. The credit must be computed in accordance with the provisions of 15-31-131<u>; however, for tax years 2011 and 2012, the amount of the credit is limited to 90% of the allowable credit computed under 15-31-131</u>."

Section 16. Section 15-30-2381, MCA, is amended to read:

"15-30-2381. Tax credit for providing temporary emergency lodging. (1) There is a credit for taxes otherwise due under this chapter for participation in the temporary emergency lodging program established in 50-51-114.

(2) The tax credit is:

(a) equal to <u>$27 in tax years 2011 and 2012 and</u> $30 <u>for all other tax years</u> for each day of lodging provided; and

(b) limited to a maximum of 5 nights' lodging for each individual per calendar year.

(3) The credit may be claimed only for lodging provided in Montana.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the taxpayer has no tax liability.

(5) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-3301, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes."

NEW SECTION. **Section 17. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 18. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2010.

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