

1 HOUSE BILL NO. 532

2 INTRODUCED BY R. HOLLANDSWORTH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE INCOME TAXATION OF
5 INDIVIDUALS, PARTNERSHIPS, AND SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND
6 ESTATES, TO RELATE THE STATE INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME AND
7 IMPOSING A FLAT TAX RATE; ELIMINATING VARIOUS INDIVIDUAL AND CORPORATE LICENSE TAX
8 CREDITS; REQUIRING REPORTS TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE;
9 PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO INCLUDE CERTAIN INCOME; PROVIDING
10 ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO EXCLUDE CERTAIN INCOME; ELIMINATING MOST
11 STATE INDIVIDUAL INCOME TAX DEDUCTIONS AND CREDITS; ELIMINATING CERTAIN CORPORATE
12 LICENSE TAX CREDITS; REPEALING PROVISIONS RELATING TO PUBLIC CONTRACTOR'S FEES AND
13 TAX; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-1312, 7-14-1133, 7-14-1636,
14 7-21-3710, 7-34-2416, 15-1-208, 15-7-102, 15-16-101, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104,
15 15-30-2113, 15-30-2151, 15-30-2153, 15-30-2320, 15-30-2328, 15-30-2329, 15-30-2501, 15-30-2512,
16 15-30-2602, 15-30-2605, 15-30-2606, 15-30-2618, 15-30-3003, 15-30-3004, 15-30-3005, 15-30-3312,
17 15-30-3313, 15-31-131, 15-31-134, 15-31-150, 15-31-151, 15-31-162, 15-31-163, 15-31-171, 15-31-172,
18 15-31-907, 15-31-908, 15-32-104, 15-32-106, 15-32-115, 15-32-303, 15-32-402, 15-32-404, 15-32-502,
19 15-32-503, 15-32-504, 15-32-505, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-602, 15-32-603,
20 15-32-610, 15-32-701, 15-32-702, 15-32-703, 15-33-106, 15-61-202, 15-61-203, 15-62-208, 15-63-202,
21 16-11-110, 17-6-316, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 33-22-2006,
22 33-22-2007, 33-22-2008, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 47-1-111, 50-51-114, 53-2-211, 53-4-1103,
23 67-11-303, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 15-30-2110, 15-30-2111, 15-30-2114,
24 15-30-2115, 15-30-2116, 15-30-2117, 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141,
25 15-30-2142, 15-30-2143, 15-30-2144, 15-30-2152, 15-30-2301, 15-30-2319, 15-30-2336, 15-30-2337,
26 15-30-2338, 15-30-2339, 15-30-2340, 15-30-2341, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364,
27 15-30-2366, 15-30-2367, 15-30-2368, 15-30-2373, 15-30-2381, 15-31-137, 15-32-109, 15-32-201, 15-32-202,
28 15-32-203, 15-50-101, 15-50-205, 15-50-206, 15-50-207, 15-50-301, 15-50-304, 15-50-307, 15-50-308,
29 15-50-309, 15-50-310, 15-50-311, 15-62-207, AND 80-12-211, MCA; AND PROVIDING A DELAYED
30 EFFECTIVE DATE AND AN APPLICABILITY DATE."

1

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

3

4 NEW SECTION. **Section 1. Report on individual income tax structure.** The department shall provide
5 a report to the revenue and transportation interim committee at least once each year regarding the individual
6 income tax provisions of Title 15, chapter 30, part 21, and the relationship between state income tax provisions
7 and federal taxable income. The report must provide an analysis of the costs associated with administering the
8 individual income tax, administrative concerns, the number and type of taxpayers that file a state individual
9 income tax return, taxpayer filing status, suggestions for tax simplification, and state general fund revenue
10 impacts. The committee may, based on information contained in the report, make recommendations to the next
11 legislature on the structure of the individual income tax.

12

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

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

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

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

24 (c) a nonqualified withdrawal from a family education savings account provided for in Title 15, chapter
25 62, to the extent that in any tax year beginning before January 1, 2014, it was deducted from income in calculating
26 Montana individual income taxes;

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

29 (e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable
30 income if the item was also used to calculate a credit against a Montana income tax liability.

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

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

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

6 (ii) railroad retirement benefits;

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

9 (c) interest and other income retained in a medical care savings account provided for in Title 15, chapter
10 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or
11 account holder or a dependent of the employee or account holder;

12 (d) interest and other income related to contributions that were made prior to January 1, 2014, that are
13 retained in a family education savings account provided for in Title 15, chapter 62, and any qualified withdrawal
14 for payment of qualified higher education expenses; and

15 (e) interest and other income retained in a first-time home buyer savings account provided for in Title
16 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family
17 residence.

18

19 **Section 3.** Section 2-18-1312, MCA, is amended to read:

20 **"2-18-1312. Tax exemption.** Employer contributions into an account, the accumulation of interest or
21 other earnings in an account, and payments from an account for qualified health care expenses are tax-exempt;
22 as provided in ~~15-30-2110~~ and under applicable federal laws and regulations to the extent that the plan is
23 qualified under applicable sections of the Internal Revenue Code."

24

25 **Section 4.** Section 7-14-1133, MCA, is amended to read:

26 **"7-14-1133. Bonds and obligations.** (1) Except for providing financial support to a private development
27 organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the
28 economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any
29 of its corporate purposes and issue bonds, including refunding bonds, for any of its corporate purposes. The
30 bonds may be in the form and upon terms as it determines, payable out of any revenue of the authority, including

1 revenue derived from:

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

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

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

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

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

27 (b) As further security for the bonds, the authority, with the approval of the governing body of the county
28 or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or
29 any portion of its port, transportation, storage, or other facilities, whether or not the facilities are financed by the
30 bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any

1 agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the
 2 authority consider advisable. The provisions must be consistent with this part and are subject to and must be in
 3 accordance with the laws of this state governing mortgages, trust indentures, security agreements, or
 4 instruments. The instrument may provide that in the event of a default in the payment of principal or interest on
 5 the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or
 6 instrument, the payment or performance may be enforced by mandamus or by the appointment of a receiver in
 7 equity. The receiver may collect charges, rental, or fees and may apply the revenue from the mortgaged property
 8 or collateral in accordance with the proceedings or the provisions of the instrument.

9 (6) Nothing in ~~this section or 7-14-1134~~ this section may be construed to limit the use of port authority
 10 revenue, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise
 11 provide financial and other support to private development organizations, including corporations organized under
 12 the provisions of the development corporation act in Title 32, chapter 4. The credit of the state, county, or
 13 municipal ~~governments~~ government or their agencies or authorities may not be pledged to provide financial
 14 support to the development organizations."
 15

16 **Section 5.** Section 7-14-1636, MCA, is amended to read:

17 **"7-14-1636. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
 18 purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms ~~as~~ that it
 19 determines, payable out of any revenue of the authority, including revenue derived from:

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

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

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

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

7 (5) For the security of the bonds, the authority may by resolution make and enter into any covenant,
8 agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality
9 under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and
10 to create and maintain a reserve for the bonds may be paid from the revenue referred to in this part, prior to the
11 payment of current costs of operation and maintenance of the facilities."
12

13 **Section 6.** Section 7-21-3710, MCA, is amended to read:

14 **"7-21-3710. Tax credits for employers in empowerment zone.** (1) There is allowed to an employer
15 a credit against taxes imposed under ~~15-30-2103~~, 15-31-121, 15-31-122, or 33-2-705 for an increase in net
16 employees as provided in this section.

17 (2) To be eligible for a credit under this section, the owner of a business located in an empowerment
18 zone:

19 (a) shall conduct a business in a facility within the empowerment zone in which retail sales of tangible
20 personal property, other than that manufactured in the business facility, are not in excess of 10% of the business
21 conducted in the facility, whether measured by number of employees doing retail sales, by square footage, or
22 by dollar volume; and

23 (b) shall increase employment in the empowerment zone with employees:

24 (i) who are employed for at least 1,750 hours a year in permanent employment intended to last at least
25 3 years;

26 (ii) who were not employed by the business in the preceding 12 months;

27 (iii) at least 35% of whom were residents of the county in which the empowerment zone is located at the
28 time they were hired by the business;

29 (iv) who are provided a health benefit plan for employees in accordance with 33-22-1811(3)(d) of which
30 at least 50% of the premium is paid by the business; and

1 (v) who are paid for job duties performed at the empowerment zone location of the business.

2 (3) (a) For the purposes of subsection (2)(b)(i), an employee hired in the last 90 days of a year is
3 considered to be an employee beginning employment in the following year. If an employee terminates
4 employment, a replacement employee may be hired and the credit for the combined length of time may be
5 claimed.

6 (b) For the purposes of subsection (2)(b)(iii), if an employee for whom a credit was claimed and who
7 counted as an empowerment zone county resident for credit eligibility in either of the immediate 2 preceding years
8 terminates employment, the replacement employee must have been a resident of the county in which the
9 empowerment zone is located at the time the replacement employee is hired.

10 (4) An employer shall apply for certification to claim a credit under the provisions of this section. The
11 department shall require a report that contains detailed information to determine whether an employer qualifies
12 under subsections (2) and (3). The information must be detailed enough for auditing purposes. The department
13 is authorized to inspect employers applying for certification or who have obtained certification.

14 (5) The department shall certify to the department of revenue or the state auditor's office, as applicable,
15 whether a business may claim a credit under the provisions of this section as well as how many additional
16 employees qualify and the year of initial employment of qualifying employees."
17

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

19 **"7-34-2416. Tax-exempt status of bonds.** Bonds issued by a county pursuant to the provisions of
20 7-34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental
21 purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~"
22

23 **Section 8.** Section 15-1-208, MCA, is amended to read:

24 **"15-1-208. Signature alternatives for electronically filed returns.** For purposes of Title 15, chapters
25 1, 2, 6 through 10, 15 through 18, 23, 24, 30 through 33, 35 through 38, 44, 50, 51, 53, 59 through 61, and 65,
26 and Title 16, chapter 11, the director of revenue, and for the purposes of Title 15, chapter 70, the director of the
27 department of transportation, may prescribe, by rule, methods for signing, subscribing, or verifying electronically
28 filed tax returns. Returns electronically filed in accordance with the methods adopted by rule have the same
29 validity and consequences as physical forms signed by a taxpayer."
30

1 **Section 9.** Section 15-7-102, MCA, is amended to read:

2 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided
3 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
4 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
5 or more of the following changes pertaining to the land or improvements have been made since the last notice:

6 (i) change in ownership;

7 (ii) change in classification;

8 (iii) except as provided in subsection (1)(b), change in valuation; or

9 (iv) addition or subtraction of personal property affixed to the land.

10 (b) After the first year, the department is not required to mail the notice provided for in subsection
11 (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the
12 phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an
13 incremental change in the tax rate.

14 (c) The notice must include the following for the taxpayer's informational purposes:

15 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
16 including the property tax assistance program under 15-6-134, the extended property tax assistance program
17 under 15-6-193, and the disabled or deceased veterans' residence exemption under 15-6-211, ~~and the residential~~
18 ~~property tax credit for the elderly under 15-30-2337 through 15-30-2344;~~

19 (ii) the total amount of mills levied against the property in the prior year; and

20 (iii) a statement that the notice is not a tax bill.

21 (d) When the department uses an appraisal method that values land and improvements as a unit,
22 including the comparable sales method for residential condominiums or the income method for commercial
23 property, the notice must contain a combined appraised value of land and improvements.

24 (e) Any misinformation provided in the information required by subsection (1)(c) does not affect the
25 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

26 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
27 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
28 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
29 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
30 the prior tax year.

1 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
2 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

3 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
4 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
5 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
6 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

7 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
8 market value of the property as determined by the department or with the classification of the land or
9 improvements, the owner may request an assessment review by submitting an objection in writing to the
10 department on forms provided by the department for that purpose. For property other than class three property
11 described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143,
12 the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the
13 department. For class three property described in 15-6-133, class four property described in 15-6-134, and class
14 ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

15 (b) For properties valued using sales price or the capitalization of net income method as an indication
16 of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of
17 comparable sales data from information received from realty transfer certificates under 15-7-308. Within 4 weeks
18 of submitting an objection, if the objection relates to residential and commercial property, the department shall
19 provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

20 (i) data from comparable sales used by the department to value the property;

21 (ii) the methodology and sources of data used by the department in the valuation of the property; and

22 (iii) if the department uses a blend of evaluations developed from various sources, the reasons that the
23 methodology was used.

24 (c) For properties valued using the capitalization of net income method as one approximation of market
25 value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements
26 for the receipt of all aggregate model output that the department used in the valuation model for the property.

27 (d) The review must be conducted informally and is not subject to the contested case procedures of the
28 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling
29 price of the property, independent appraisals of the property, and other relevant information presented by the
30 taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give

1 reasonable notice to the taxpayer of the time and place of the review.

2 (e) After the review, the department shall determine the correct appraisal and classification of the land
3 or improvements and notify the taxpayer of its determination. The department may not determine an appraised
4 value that is higher than the value that was the subject of the objection unless the reason for an increase was
5 the result of a physical change in the property or caused by an error in the description of the property that is kept
6 by the department and used for calculating the appraised value. In the notification, the department shall state its
7 reasons for revising the classification or appraisal. When the proper appraisal and classification have been
8 determined, the land must be classified and the improvements appraised in the manner ordered by the
9 department.

10 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
11 appraisal or classification upon the taxpayer's objection unless:

- 12 (a) the taxpayer has submitted an objection in writing; and
13 (b) the department has stated its reason in writing for making the adjustment.

14 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
15 taxpayer of its determination and the reason for that determination are public records. The department shall make
16 the records available for inspection during regular office hours.

17 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
18 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
19 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
20 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
21 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
22 the actual selling price of the property, independent appraisals of the property, and other relevant information
23 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the
24 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
25 of the property in accordance with the board's order."

26

27 **Section 10.** Section 15-16-101, MCA, is amended to read:

28 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
29 of the property tax record, the county treasurer shall publish a notice specifying:

30 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next

1 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
2 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
3 until paid and 2% will be added to the delinquent taxes as a penalty;

4 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next
5 May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6
6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
7 and

8 (c) the time and place at which payment of taxes may be made.

9 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
10 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
11 and delinquent for other years. The written notice must include:

12 (i) the taxable value of the property;

13 (ii) the total mill levy applied to that taxable value;

14 (iii) itemized city services and special improvement district assessments collected by the county;

15 (iv) the number of the school district in which the property is located;

16 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and
17 other tax; and

18 (vi) a notice of the availability of all the property tax assistance programs available to property taxpayers,
19 including the property tax assistance program under 15-6-134, the extended property tax assistance program
20 under 15-6-193, and the disabled or deceased veterans' residence exemption under 15-6-211, ~~and the residential~~
21 ~~property tax credit for the elderly under 15-30-2337 through 15-30-2341.~~

22 (b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued
23 under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the
24 property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete
25 information.

26 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
27 under subsection (2)(a)(iii) ready for mailing.

28 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper
29 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish
30 or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the

1 current year or of delinquent tax will not affect the legality of the tax.

2 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
3 tax is not owed and a new tax bill does not need to be prepared."

4

5 **Section 11.** Section 15-30-2101, MCA, is amended to read:

6 **"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the
7 following definitions apply:

8 ~~(1) "Base year structure" means the following elements of the income tax structure:~~

9 ~~—— (a) the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June 30
10 of the taxable year;~~

11 ~~—— (b) the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June 30 of
12 the taxable year;~~

13 ~~—— (c) the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect
14 on June 30 of the taxable year.~~

15 ~~(2)~~(1) "Consumer price index" means the consumer price index, United States city average, for all items,
16 for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics
17 of the U.S. department of labor.

18 ~~(3)~~(2) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

19 (a) that is treated as an association for federal income tax purposes;

20 (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not
21 in effect; and

22 (c) that is not a disregarded entity.

23 ~~(4)~~(3) "Department" means the department of revenue.

24 ~~(5)~~(4) "Disregarded entity" means a business entity:

25 (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in
26 United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as
27 those regulations may be labeled or amended; or

28 (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided
29 in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

30 ~~(6)~~(5) "Dividend" means:

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

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

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

6 (7) "Federal taxable income", when referring to an individual, means taxable income as defined and
7 described in section 63 of the Internal Revenue Code (26 U.S.C. 63) and, when referring to a trust or estate,
8 means taxable income as defined and described in Subtitle A, Chapter 1, Subchapter J., of the Internal Revenue
9 Code.

10 ~~(7)(8)~~ "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any
11 person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

12 ~~(8)(9)~~ "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana,
13 as provided in 15-31-101.

14 ~~(9)(10)~~ "Foreign government" means any jurisdiction other than the one embraced within the United
15 States, its territories, and its possessions.

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

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

22 ~~(11)(12)~~ "Inflation factor" means a number determined for each tax year by dividing the consumer price
23 index for June of the tax year by the consumer price index for June 2005.

24 ~~(12)(13)~~ "Information agents" includes all individuals and entities acting in whatever capacity, including
25 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
26 officers and employees of the state or of any municipal corporation or political subdivision of the state, having the
27 control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
28 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
29 and income with respect to which any person or fiduciary is taxable under this chapter.

30 ~~(13)(14)~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may

1 be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
2 provisions as they may be otherwise labeled or further amended.

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

4 ~~(14)~~(16) "Knowingly" is as defined in 45-2-101.

5 ~~(15)~~(17) "Limited liability company" means a limited liability company, a domestic limited liability company,
6 or a foreign limited liability company as defined in 35-8-102.

7 ~~(16)~~(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

8 ~~(17)~~(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

9 (a) a resident taxpayer on a lottery ticket; or

10 (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

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

13 ~~(18)~~(21) (a) "Montana source income" means:

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

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

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

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

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

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

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

28 (viii) net rents from real property and tangible personal property located in the state or received or
29 accrued while a resident of the state;

30 (ix) net royalties from real property and from tangible real property to the extent the property is used in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership
29 doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,
30 multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment

1 factor as provided in this subsection ~~(18)(a)(xviii)~~ (21)(a)(xvii) does not fairly and equitably represent the
 2 nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the
 3 department may require with respect to any and all of the partnership interest, the employment of another method
 4 to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection ~~(18)(a)(xviii)~~
 5 (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with
 6 taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

7 (b) The term does not include:

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

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

16 (22) "Montana taxable income" means federal taxable income as determined for federal income tax
 17 purposes and adjusted as provided in [section 2].

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

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

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

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

27 ~~(23)(26)~~ (26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability
 28 company, or other entity; if treated as a partnership for federal income tax purposes.

29 ~~(24)(27)~~ (27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

30 ~~(25)(28)~~ (28) "Pension and annuity income" means:

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

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

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

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

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

14 ~~(26)~~(29) "Purposely" is as defined in 45-2-101.

15 ~~(27)~~(30) "Received", for the purpose of computation of taxable income under this chapter, means
16 received or accrued, and the term "received or accrued" must be construed according to the method of
17 accounting upon the basis of which the used to compute federal taxable income is computed under this chapter.

18 ~~(28)~~(31) "Resident" applies only to natural persons and includes, for the purpose of determining liability
19 to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the
20 state of Montana and any other person who maintains a permanent place of abode within the state even though
21 temporarily absent from the state and who has not established a residence elsewhere.

22 ~~(29)~~(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of
23 the Internal Revenue Code (26 U.S.C. 1362) is in effect.

24 ~~(30)~~(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in
25 proportion to their previous holdings.

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

28 ~~(34)~~(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

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

1 ~~(33)~~(36) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or
 2 other obligation imposed by this chapter and unless otherwise specifically provided does not include a C.
 3 corporation."

4

5 **Section 12.** Section 15-30-2102, MCA, is amended to read:

6 **"15-30-2102. Construction of net income.** For the purpose of raising revenue, the ~~net~~ income required
 7 to be shown on returns under this chapter and taken as the basis for determining the tax ~~hereunder shall~~ may
 8 not be classified or held or construed to be property. All income except what has been expressly exempted under
 9 the provisions of the Internal Revenue Code or this chapter and income not permitted to be taxed under the
 10 constitution of this state or the constitution or laws of the United States ~~shall~~ must be included and considered
 11 in determining the ~~net~~ income of taxpayers subject to tax within the ~~provision~~ provisions of this chapter."

12

13 **Section 13.** Section 15-30-2103, MCA, is amended to read:

14 **"15-30-2103. Rate of tax.** ~~(1)~~ There must be levied, collected, and paid for each tax year upon the
 15 Montana taxable income of each taxpayer subject to this tax, ~~after making allowance for exemptions and~~
 16 ~~deductions as provided in this chapter, a tax on the brackets of~~ Montana taxable income ~~as follows:~~ of 5.5%.

17 ~~— (a) on the first \$2,300 of taxable income or any part of that income, 1%;~~

18 ~~— (b) on the next \$1,800 of taxable income or any part of that income, 2%;~~

19 ~~— (c) on the next \$2,100 of taxable income or any part of that income, 3%;~~

20 ~~— (d) on the next \$2,200 of taxable income or any part of that income, 4%;~~

21 ~~— (e) on the next \$2,400 of taxable income or any part of that income, 5%;~~

22 ~~— (f) on the next \$3,100 of taxable income or any part of that income, 6%;~~

23 ~~— (g) on any taxable income in excess of \$13,900 or any part of that income, 6.9%.~~

24 ~~(2) By November 1 of each year, the department shall multiply the bracket amount contained in~~
 25 ~~subsection (1) by the inflation factor for that tax year and round the cumulative brackets to the nearest \$100. The~~
 26 ~~resulting adjusted brackets are effective for that tax year and must be used as the basis for imposition of the tax~~
 27 ~~in subsection (1) of this section."~~

28

29 **Section 14.** Section 15-30-2104, MCA, is amended to read:

30 **"15-30-2104. Tax on nonresident.** (1) (a) A tax is imposed upon each nonresident individual, estate,

1 or trust equal to the tax computed under 15-30-2103 as if the nonresident individual, estate, or trust were a
 2 resident during the entire tax year, multiplied by the ratio of Montana source income to total federal taxable
 3 income from all sources.

4 (b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or credit
 5 to be counted more than once in determining the amount of Montana source income, and the department may
 6 adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular items
 7 of income, gain, loss, deduction, expense, or credit.

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

16

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

18 "**15-30-2113. Determination of status -- effect of federal marital status elections.** For purposes of
 19 this chapter:

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

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

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

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

1

2 **Section 16.** Section 15-30-2151, MCA, is amended to read:

3 "**15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.** (1) A tax ~~must be~~ is imposed
4 ~~upon either on~~ the fiduciaries ~~or and~~ the beneficiaries of estates and trusts ~~as provided in this section, except to~~
5 ~~the extent that estates and trusts must be held for educational, charitable, or religious purposes. The tax must~~
6 ~~be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in~~
7 ~~trust, including:~~

8 ~~—— (a) income received by estates of deceased persons during the period of administration or settlement~~
9 ~~of the estate;~~

10 ~~—— (b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with~~
11 ~~contingent interests;~~

12 ~~—— (c) income held for future distribution under the terms of the will or trust; and~~

13 ~~—— (d) income that is to be distributed to the beneficiaries periodically, whether or not at regular intervals,~~
14 ~~and the income collected by a guardian of a minor, to be held or distributed as the court may direct in the same~~
15 ~~manner and to the same extent as federal income tax is imposed on them under the Internal Revenue Code.~~

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

24 (3) ~~In cases under subsections (1)(a), (1)(b), and (1)(c), the~~ The tax ~~must be~~ imposed ~~upon~~ on the
25 fiduciary of the estate or trust ~~with respect to the net income of the estate or trust and~~ must be paid by the
26 fiduciary. ~~If the taxpayer's net income for the tax year of the estate or trust is computed upon the basis of a period~~
27 ~~different from that upon the basis of which the net income of the estate or trust is computed, then the taxpayer's~~
28 ~~distributive share of the net income of the estate or trust for any accounting period of the estate or trust ending~~
29 ~~within the fiscal or calendar year must be computed upon the basis on which the beneficiary's net income is~~
30 ~~computed. In those cases, a beneficiary who is not a resident must be taxable with respect to the beneficiary's~~

1 income derived through the estate or trust only to the extent provided in 15-30-2111 for individuals other than
2 residents:

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

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

14

15 **Section 17.** Section 15-30-2153, MCA, is amended to read:

16 **"15-30-2153. Determination of tax of estates and trusts.** The amount of tax ~~must be~~ is determined
17 from Montana taxable income of an estate or trust ~~in the same manner as the tax on taxable income of~~
18 ~~individuals,~~ by applying the ~~rates~~ rate contained in 15-30-2103. Credits allowed to individuals under Title 15,
19 chapter 30, also apply to estates and trusts when applicable."
20

20

21 **Section 18.** Section 15-30-2320, MCA, is amended to read:

22 **"15-30-2320. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in
23 subsection (1)(b), ~~an individual, a corporation, a partnership, or a small business corporation~~ as defined in
24 ~~15-30-3304~~ 15-31-101, is allowed a tax credit against taxes imposed by ~~15-30-2103~~ or 15-31-101 for equipment
25 and labor costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

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

28 (2) The maximum credit a taxpayer may claim in a year under this section is an amount equal to 50%
29 of the equipment and labor costs incurred but the credit may not exceed:

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

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

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

3 (a) natural gas;

4 (b) liquefied petroleum gas;

5 (c) liquefied natural gas;

6 (d) hydrogen;

7 (e) electricity; or

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

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

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

13

14 **Section 19.** Section 15-30-2328, MCA, is amended to read:

15 **"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit**

16 **-- deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by
17 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the
18 charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The
19 maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000.
20 The credit allowed under this section may not exceed the taxpayer's income tax liability.

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

24 ~~(3)(2)~~ There is no carryback or carryforward of the credit permitted under this section, and the credit must
25 be applied to the tax year in which the contribution is made.

26 ~~(4)(3)~~ If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

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

29 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed
30 in the tax year in which the credit was taken. (Terminates December 31, 2013--sec. 7, Ch. 4, L. 2005; secs. 2,

1 3, 4, 7(2), Ch. 208, L. 2007.)"

2

3 **Section 20.** Section 15-30-2329, MCA, is amended to read:

4 **"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified**
5 **endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the
6 credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright
7 gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the estate
8 in the same proportion used to report the beneficiary's income from the estate for Montana income tax purposes.
9 The maximum amount of credit that a beneficiary may claim is \$10,000, ~~subject to the limitation in 15-30-2328(2);~~
10 and the credit must be claimed in the year in which the contribution is made. The credit may not be carried
11 forward or carried back. (Terminates December 31, 2013--secs. 2, 3, Ch. 208, L. 2007.)"

12

13 **Section 21.** Section 15-30-2501, MCA, is amended to read:

14 **"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions apply:

15 (1) (a) "Employee" means:

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

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

21 (iii) an officer of a corporation;

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

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

25 (2) "Employer" means:

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

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

- 1 (i) a state government and any of its political subdivisions or instrumentalities;
- 2 (ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability
3 company, or domestic or foreign corporation;
- 4 (iii) a receiver, trustee, including a trustee in bankruptcy, or the trustee's successor; or
- 5 (iv) a legal representative of a deceased person; or
- 6 (c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance
7 purposes, or under Title 39, chapter 71, for workers' compensation purposes.
- 8 (3) "Lookback period" means the 12-month period ending the preceding June 30.
- 9 (4) "Sole proprietor" means an individual doing business in a noncorporate form and includes the
10 member of a single-member limited liability company that is a disregarded entity if the member is an individual.
- 11 (5) (a) Except as provided in subsection (5)(b), "wages" has the meaning provided in section 3401 of
12 the Internal Revenue Code, 26 U.S.C. 3401.
- 13 (b) The term does not include:
- 14 ~~—— (i) tips and gratuities exempt from taxation under 15-30-2110;~~
- 15 ~~—— (ii) health insurance premiums attributed as income to an employee under federal law that are exempt
16 from taxation under 15-30-2110;~~
- 17 ~~—— (iii) unemployment compensation, including supplemental unemployment compensation treated as wages
18 under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as
19 provided in 15-30-2101; or~~
- 20 ~~—— (iv) any amount paid to a sole proprietor."~~

21

22 **Section 22.** Section 15-30-2512, MCA, is amended to read:

- 23 **"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to tax
24 under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through
25 employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as
26 provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax
27 payments, at least:
- 28 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
- 29 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax
30 year was a period of 12 months and if the individual filed a return for the tax year.

- 1 (b) Payment of estimated taxes under this section is not required if:
- 2 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than
- 3 \$500 after reductions for credits and withholding;
- 4 (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12
- 5 months, and if the individual was a citizen or resident of the United States throughout that tax year;
- 6 (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that
- 7 the department determines to constitute good cause; or
- 8 (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became
- 9 disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year
- 10 following the tax year in which the individual retired or became disabled.

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

12 (a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on

13 January 1, estimated tax payments are due on the following dates:

14 Installment	Date
15 First	April 15
16 Second	June 15
17 Third	September 15
18 Fourth	January 15 of the following tax year

19 (b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on

20 a date other than January 1, estimated tax payments are due on the following dates:

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

26 (3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual

27 payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding

28 installment must be proportionally changed so that the balance of the required annual payment is paid in equal

29 installments over the remaining period of time.

30 (b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent

1 installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the
 2 taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required.
 3 For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a)
 4 or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments,
 5 respectively. For estimated taxes required to be paid beginning with the third installment provided for in
 6 subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

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

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

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

16 Required Installment	Applicable Percentage
17 First	22.5%
18 Second	45%
19 Third	67.5%
20 Fourth	90%

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

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

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

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

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

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

12 (i) the taxpayer pays in full the amount computed on the return as payable; and

13 (ii) the taxpayer files a return on or before the last day of the month following the close of the tax year
 14 referred to in subsection (2)(a) or (2)(b).

15 (6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3%
 16 of the taxpayer's gross income, as ~~defined in 15-30-2104~~ determined for federal income tax purposes, from
 17 farming or ranching operations, or both.

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

20

21 **Section 23.** Section 15-30-2602, MCA, is amended to read:

22 **"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits -- inflation**
 23 **adjustment.** (1) ~~For both resident and nonresident taxpayers, each single~~ If required to file a federal income tax
 24 return pursuant to the Internal Revenue Code, each individual, including each nonresident with Montana source
 25 income, and each estate or trust shall file each married individual not filing a joint return with a spouse and having
 26 a gross income for the tax year of more than \$3,560, as adjusted under the provisions of subsection (6), and
 27 married individuals not filing separate returns and having a combined gross income for the tax year of more than
 28 \$7,120, as adjusted under the provisions of subsection (6), are liable for a return to be filed on forms and
 29 according to rules that the department may prescribe. The gross income amounts referred to in this subsection
 30 ~~(4) must be increased by \$1,900, as adjusted under the provisions of 15-30-2114(6), for each additional personal~~

1 exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under
2 15-30-2114(3) and (4):

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

9 ~~(3)(2)~~ If a taxpayer is unable to make the taxpayer's own return, the return must be made by an
10 authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

11 ~~(4)(3)~~ All taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and
12 15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this
13 chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the
14 amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return
15 provided for in 15-30-2512. However, the tax computed must be greater by \$1 than the amount withheld and paid
16 by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax
17 exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

18 ~~(5)(4)~~ If the department determines that the amount of tax due is greater than the amount of tax
19 computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in
20 15-30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

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

25 ~~(7)(5)~~ Individual income tax forms distributed by the department for each tax year must contain
26 instructions and tables based on the ~~adjusted base year~~ Montana income tax structure for that tax year."

27

28 **Section 24.** Section 15-30-2605, MCA, is amended to read:

29 **"15-30-2605. Revision of return by department -- statute of limitations -- examination of records**
30 **and persons.** (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect,

1 it may revise the return.

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

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

10 (4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return that
11 violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed
12 and the tax may be collected at any time after it becomes due.

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

20

21 **Section 25.** Section 15-30-2606, MCA, is amended to read:

22 **"15-30-2606. Tolling of statute of limitations.** The running of the statute of limitations provided for
23 under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of
24 federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has
25 instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1
26 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619, the statute of
27 limitations does not apply until 5 years from the date the federal changes become final or the amended federal
28 return was filed. If the taxpayer omits from federal gross income, as defined and described in section 61 of the
29 Internal Revenue Code (26 U.S.C. 61), an amount properly includable as federal gross income and the amount
30 is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does

1 not apply for 2 additional years from the time specified in 15-30-2605."

2

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

4 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
5 and subsections (7) and (8) of this section, in accordance with a proper judicial order, or as otherwise provided
6 by law, it is unlawful to divulge or make known in any manner:

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

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

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

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

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

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

19 (3) This section does not prohibit:

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

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

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

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

29 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If the
30 offender is an officer or employee of the state, the offender must be dismissed from office or employment and

1 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the
2 case of a former officer or employee, for 1 year after conviction.

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

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

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

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

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

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

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

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

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

- 1 ~~(e)~~(d) to the board of regents information required under 20-26-1111;
- 2 ~~(f)~~(e) to the legislative fiscal analyst and the office of budget and program planning individual income tax
3 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
4 and program planning must be the same as the information provided to the legislative fiscal analyst.
- 5 ~~(g)~~(f) to the department of transportation farm income information based on the most recent income tax
6 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
7 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
8 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.
- 9 ~~(h)~~(g) to the commissioner of insurance's office all information necessary for the administration of the
10 small business health insurance tax credit provided for in Title 33, chapter 22, part 20."

11

12 **Section 27.** Section 15-30-3003, MCA, is amended to read:

13 **"15-30-3003. (Temporary) Montana farm and ranch risk management account -- deposits --**
14 **exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural
15 business may ~~create~~ hold a Montana farm and ranch risk management account that is composed of contributions
16 that were made to the account prior to January 1, 2014, as provided in this part, to use as a risk management
17 tool for the individual's or family farm corporation's agricultural business. The number of risk management
18 accounts that may be ~~created~~ held is limited to one for each individual or family farm corporation.

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

- 23 ~~(a) during a the tax year beginning before January 1, 2014;~~ ~~or~~
- 24 ~~(b) for a specific tax year if it is made within 3 1/2 months after the close of the tax year.~~

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

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

30

1 **Section 28.** Section 15-30-3004, MCA, is amended to read:

2 **"15-30-3004. (Temporary) Montana farm and ranch risk management account -- creation --**
 3 **administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the
 4 state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an
 5 investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The
 6 trust must be created by written instrument.

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

9 ~~(3)~~(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months
 10 of the date of deposit.

11 ~~(4)~~(3) The assets of the trust must consist entirely of cash or of obligations that have adequate stated
 12 interest and that pay the interest at least annually.

13 ~~(5)~~(4) All income of the trust must be distributed currently to the grantor.

14 ~~(6)~~(5) The assets of the trust may not be commingled with other property except in a common trust fund
 15 or common investment fund. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

16

17 **Section 29.** Section 15-30-3005, MCA, is amended to read:

18 **"15-30-3005. (Temporary) Montana farm and ranch risk management account -- distributions.** (1)
 19 Distributions from the account may be used for any purpose the taxpayer chooses.

20 (2) Distributions from an account:

21 (a) are first attributable to income and then to other deposits; and

22 (b) must be considered to be made from deposits in the order in which the deposits were made,
 23 beginning with the earliest deposits. Income is considered to be deposited on the date the income is received by
 24 the account.

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

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

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

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

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

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

11

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

13 **"15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a
 14 composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder,
 15 member, or other owner who:

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

20 (b) consents to be included in the filing.

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

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

29 (ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's income from
 30 all sources for federal income tax purposes.

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

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

4 (4) The electing entity:

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

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

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

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

12 and

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

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

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

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

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

22 (c) 15-31-403.

23 (7) The department may adopt rules that are necessary to implement and administer this section."
24

25 **Section 31.** Section 15-30-3313, MCA, is amended to read:

26 **"15-30-3313. Consent or withholding.** (1) A pass-through entity that is required to file an information
27 return as provided in 15-30-3302 and that has a partner, shareholder, member, or other owner who is a
28 nonresident individual, a foreign C. corporation, or a pass-through entity that itself has any partner, shareholder,
29 member, or other owner that is a nonresident individual, foreign C. corporation, or pass-through entity shall, on
30 or before the due date, including extensions, for the information return:

- 1 (a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:
2 (i) file a composite return;
3 (ii) file an agreement of the individual nonresident to:
4 (A) file a return in accordance with the provisions of 15-30-2602;
5 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
6 (C) be subject to the personal jurisdiction of the state for the collection of income taxes and related
7 interest, penalties, and fees imposed with respect to the income of the pass-through entity; or
8 (iii) remit an amount equal to the ~~highest marginal~~ tax rate in effect under 15-30-2103 multiplied by the
9 nonresident individual's share of Montana source income reflected on the pass-through entity's information return;
- 10 (b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:
11 (i) file a composite return;
12 (ii) file the foreign C. corporation's agreement to:
13 (A) file a return in accordance with the provisions of 15-31-111;
14 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
15 (C) be subject to the personal jurisdiction of the state for the collection of corporation license and income
16 taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or
17 (iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C.
18 corporation's share of Montana source income reflected on the pass-through entity's information return; and
- 19 (c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also
20 referred to in this section as a "second-tier pass-through entity":
21 (i) file a composite return;
22 (ii) file a statement of the pass-through entity partner, shareholder, member, or other owner setting forth
23 the name, address, and social security or federal identification number of each of that entity's partners,
24 shareholders, members, or other owners and information that establishes that its share of Montana source
25 income will be fully accounted in individual income or corporation license or income tax returns filed with the state;
26 or
27 (iii) remit an amount equal to the ~~highest marginal~~ tax rate in effect under 15-30-2103 multiplied by its
28 share of Montana source income reflected on the pass-through entity's information return.
- 29 (2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to
30 subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income

1 tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date,
2 including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through
3 entity shall furnish to the nonresident individual a record of the amount of tax paid on the individual's behalf.

4 (3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to
5 subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the
6 corporation license tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the
7 corporation income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before
8 the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the
9 pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

10 (4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant
11 to subsection (1)(c)(iii) must be considered as payment on the account of the individual, trust, estate, or C.
12 corporation to which Montana source income is directly or indirectly passed through and must be claimed as the
13 distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner
14 on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through
15 entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier
16 pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

17 (5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii),
18 (1)(b)(iii), or (1)(c)(iii) from the partner, shareholder, member, or other owner on whose behalf the payment was
19 made.

20 (6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C.
21 corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must,
22 with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included
23 in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the
24 nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

25 (7) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information
26 return reporting the name, address, and taxpayer identification number for each person or entity that has an
27 interest in the partnership that results in Montana source income or that has sold its interest in the partnership
28 during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A
29 publicly traded partnership shall provide the department with the information in an electronic form that is capable
30 of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its

1 obligation to pay Montana income taxes.

2 (8) Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601
3 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the
4 extent of the taxpayer's business activity in the state."

5

6 **Section 32.** Section 15-31-131, MCA, is amended to read:

7 **"15-31-131. Credit for dependent care assistance and referral services.** (1) There is a credit against
8 the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax
9 year by the employer for dependent care assistance actually provided to or on behalf of an employee if the
10 assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the
11 requirements of section 129(d)(2) through (6) of the Internal Revenue Code, 26 U.S.C. 129(d)(2) through (d)(6).

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

15 (b) For the purposes of this subsection, marital status must be determined under the rules of section
16 21(e)(3) and (4) of the Internal Revenue Code, 26 U.S.C. 21(e)(3) and (e)(4).

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

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

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

25 (4) An amount paid or incurred during the tax year of an employer in providing dependent care
26 assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the
27 amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code,
28 26 U.S.C. 129(c)(1) or (c)(2).

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

1 (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

2 (b) if the amount is paid or incurred for services not performed within this state.

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

7 ~~(7) The amount upon which the credit allowed under subsection (1) is based may not be included in the~~
8 ~~gross income of the employee to whom the dependent care assistance is provided. However, the amount~~
9 ~~excluded from the income of an employee under this section may not exceed the limitations provided in section~~
10 ~~129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15, chapter 30, part 25, with respect~~
11 ~~to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded~~
12 ~~under this subsection. Amounts excluded under this subsection do not qualify as expenses for which a deduction~~
13 ~~is allowed to the employee under 15-30-2131.~~

14 ~~(8)(7)~~ Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular
15 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any
16 credit remaining unused in the next succeeding tax year may be carried forward and used in the second
17 succeeding tax year and likewise through the fifth year succeeding the tax year in which the credit was first
18 allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

19 ~~(9) If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code, 26~~
20 ~~U.S.C. 1361, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the~~
21 ~~corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro-rata share of~~
22 ~~the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the~~
23 ~~corporation as otherwise provided by law.~~

24 ~~(10)(8)~~ For purposes of the credit allowed under subsection (1) or (3):

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

27 (b) "employer" means an employer carrying on a business, trade, occupation, or profession in this state."
28

29 **Section 33.** Section 15-31-134, MCA, is amended to read:

30 **"15-31-134. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due

1 under 15-31-121 or 15-31-122 for an employer for each new employee at a business in an empowerment zone
 2 created pursuant to Title 7, chapter 21, part 37. The taxpayer must be certified by the department of labor and
 3 industry to be eligible to receive the credit as provided in 7-21-3710.

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

5 1st year of employment	\$500
6 2nd year of employment	\$1,000
7 3rd year of employment	\$1,500

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

11 ~~(4) If the credit allowed under this section is claimed by a small business corporation, as defined in~~
 12 ~~15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or~~
 13 ~~partners using the same proportion as used to report the entity's income or loss."~~

14

15 **Section 34.** Section 15-31-150, MCA, is amended to read:

16 **"15-31-150. Credit for research expenses and research payments.** (1) (a) There is a credit against
 17 taxes otherwise due under this chapter for increases in qualified research expense and basic research payments
 18 for research conducted in Montana. Except as provided in this section, the credit must be determined in
 19 accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as that section read on July 1, 1996,
 20 or as subsequently amended.

21 (b) For purposes of the credit, the:

- 22 (i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;
- 23 (ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;
- 24 (iii) special rules in 26 U.S.C. 41(g) do not apply; and
- 25 (iv) termination date provided for in 26 U.S.C. 41(h)(1)(B) does not apply.

26 (2) The credit allowed under this section for a tax year may not exceed the tax liability under chapter 30
 27 or 31. A credit may not be refunded if a taxpayer has tax liability less than the amount of the credit.

28 (3) The credit allowed under this section may be used as a carryback against taxes imposed under
 29 chapter 30 or 31 for the 2 preceding tax years and may be used as a carryforward against taxes imposed by
 30 chapter 30 or 31 for the 15 succeeding tax years. The entire amount of the credit not used in the year earned

1 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
2 year.

3 (4) A taxpayer may not claim a current year credit under this section after December 31, 2010. However,
4 any unused credit may be carried back or forward as provided in subsection (3).

5 (5) A corporation, ~~an individual, a small business corporation, a partnership, a limited liability partnership,~~
6 ~~or a limited liability company~~ that is subject to taxation under this chapter qualifies for the credit under this section.
7 ~~If the credit is claimed by a small business corporation, a partnership, a limited liability partnership, or a limited~~
8 ~~liability company, the credit must be attributed to the individual shareholders, partners, members, or managers~~
9 ~~in the same proportion used to report income or loss for state tax purposes.~~ The allocations in 26 U.S.C. 41(f)
10 do not apply to this section.

11 (6) For purposes of calculating the credit, the following definitions apply:

12 (a) "Gross receipts" means:

13 (i) for a corporation that has income from business activity that is taxable only within the state, all gross
14 sales less returns of the corporation for the tax year; and

15 (ii) for a corporation that has income from business activity that is taxable both within and outside of the
16 state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

17 (b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d), but is limited to research
18 conducted in Montana.

19 (c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b), but includes only the
20 sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

21 (d) "Supplies" has the meaning provided in 26 U.S.C. 41(b)(2)(C), but includes only those supplies used
22 in the conduct of qualified research in Montana.

23 (e) (i) "Wages" has the meaning provided in 39-51-201, except as provided in subsection (6)(e)(ii) of this
24 section, and includes only those wages paid or incurred for an employee for qualified services performed by the
25 employee in Montana.

26 (ii) Notwithstanding the exception to the definition of wages in 39-51-201(24)(b)(v), for a self-employed
27 individual and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the
28 employee.

29 (7) The department shall adopt rules, prepare forms, maintain records, and perform other duties
30 necessary to implement this section. In adopting rules to implement this section, the department shall conform

1 the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except to the extent that
 2 the regulations need to be modified to conform to this section."

3

4 **Section 35.** Section 15-31-151, MCA, is amended to read:

5 **"15-31-151. Credit for preservation of historic buildings.** (1) (a) There is allowed as a credit against
 6 the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed for qualified
 7 rehabilitation expenditures, with respect to any certified historic building located in Montana, as provided in 26
 8 U.S.C. 47 or as that section may be renumbered or amended.

9 (b) The amount of the credit allowed for a tax year is 25% of the amount of the credit determined under
 10 26 U.S.C. 47(a)(2) or as that section may be renumbered or amended.

11 (2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the
 12 amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by
 13 this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to
 14 the current tax year's credit is a credit carryover to the 7 succeeding tax years. The entire amount of unused credit
 15 must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be
 16 used first.

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

20

21 **Section 36.** Section 15-31-162, MCA, is amended to read:

22 **"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company**
 23 **credit for contribution to qualified endowment -- recapture of credit -- deduction included as income.** (1)

24 A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined
 25 in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or
 26 business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162,
 27 or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed to
 28 shareholders, partners, or members of a limited liability company in the same proportion used to report the
 29 corporation's, partnership's, or limited liability company's income or loss for Montana income tax purposes. The
 30 maximum credit that a shareholder of a small business corporation, a partner of a partnership, or a member of

1 a limited liability company may claim in a year is \$10,000, ~~subject to the limitations in 15-30-2328(2)~~. The credit
 2 allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or
 3 carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the
 4 contribution is made.

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

8 (b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall increase
 9 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
 10 the credit was taken. (Terminates December 31, 2013--sec. 7, Ch. 4, L. 2005; secs. 2, 3, 4, 7(2), Ch. 208, L.
 11 2007.)"

12

13 **Section 37.** Section 15-31-163, MCA, is amended to read:

14 **"15-31-163. Capital gain exclusion from sale of mobile home park.** (1) The following amount of the
 15 gain recognized from the sale or exchange of a mobile home park as defined in 70-33-103 is excluded from
 16 ~~adjusted gross income or gross income under chapter 30 or 31:~~

17 (a) 100% of the recognized gain for a mobile home park with 50 or fewer lots; or

18 (b) 50% of the recognized gain for a mobile home park with more than 50 lots.

19 (2) To qualify for the exclusion under this section, the sale must be made to:

20 (a) a tenants' association or a mobile home park residents' association;

21 (b) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code that purchases a
 22 mobile home park on behalf of tenants' association or mobile home park residents' association;

23 (c) a county housing authority created under Title 7, chapter 15, part 21; or

24 (d) a municipal housing authority created under Title 7, chapter 15, parts 44 and 45.

25 (3) A corporation, ~~an individual, a partnership, an S. corporation, or a disregarded entity~~ qualifies for the
 26 exclusion under this section. ~~If the exclusion allowed under this section is taken by a partnership, an S.~~
 27 ~~corporation, or a disregarded entity, the exclusion must be attributed to shareholders, partners, or other owners~~
 28 ~~using the same proportion used to report the partnership's, S. corporation's, or disregarded entity's income or loss~~
 29 ~~for Montana income tax purposes.~~

30 (4) For the purpose of this section, "tenants' association" or "mobile home park residents' association"

1 means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of
 2 eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the
 3 approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

4 (5) Property subject to ~~an income or a~~ corporate tax exclusion under this section is not eligible for a
 5 property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park."
 6

7 **Section 38.** Section 15-31-171, MCA, is amended to read:

8 **"15-31-171. Tax credit for providing temporary emergency lodging.** (1) There is a credit for taxes
 9 otherwise due under this chapter for participation in the temporary emergency lodging program established in
 10 50-51-114.

11 (2) The tax credit is:

12 (a) equal to \$30 for each day of lodging provided; and

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

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

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

17 ~~(5) If the credit allowed under this section is claimed by a small business corporation, as defined in~~
 18 ~~15-30-3301, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion~~
 19 ~~to report the corporation's or partnership's income or loss for Montana income tax purposes."~~
 20

21 **Section 39.** Section 15-31-172, MCA, is amended to read:

22 **"15-31-172. Small business corporation -- deduction for donation of computer equipment to**
 23 **schools.** A small business corporation, as defined in 15-30-3301, that is subject to taxation under this chapter
 24 is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net
 25 income, of a computer or other sophisticated technological equipment or apparatus intended for use with the
 26 computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

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

29 (2) the property is not transferred by the donee in exchange for money, other property, or services; and

30 (3) the electing small business corporation receives a written statement from the donee in which the

1 donee agrees to accept the property and representing that the use and disposition of the property will be in
 2 accordance with the provisions of subsection (2); and
 3 ~~———— (4) the deduction allowed in this section is in lieu of the deduction allowed under 15-30-2131 for~~
 4 ~~charitable contributions."~~

5

6 **Section 40.** Section 15-31-907, MCA, is amended to read:

7 **"15-31-907. (Temporary) Employment production tax credit.** (1) A production company that has
 8 submitted an application for a tax credit and paid the fee as required under 15-31-906 is allowed a tax credit
 9 against the taxes imposed by chapter ~~30~~ or 31 for the employment of residents of this state in connection with
 10 a state-certified production in the state. Except as provided in subsection (4)(b), the credit is equal to credit
 11 carryovers and the credit for the tax year.

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

15 (3) The taxpayer is required to provide to the department, on a form prescribed by the department, a list
 16 of all cast and crew participating in the production and the amount of compensation paid to each Montana
 17 resident. The form returned by the taxpayer must include the certification number provided for in 15-31-904.

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

20 (a) the credit may be refunded; or

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

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

26 (6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included
 27 the amount of the compensation upon which the amount of the credit was computed as a deduction under
 28 ~~15-30-2131~~ or 15-31-114.

29 (7) If any application of this section is held invalid, this section applies to other situations or persons in
 30 a manner that is not included in the invalid application. (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005;

1 sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.)"

2

3 **Section 41.** Section 15-31-908, MCA, is amended to read:

4 **"15-31-908. (Temporary) Tax credit for qualified expenditures.** (1) A production company that has
5 submitted an application and paid the fee as required under 15-31-906 is allowed a tax credit against the taxes
6 imposed by chapter ~~30~~ or 31 for qualified expenditures in this state made in connection with a state-certified
7 production in the state. The credit allowed under this section is equal to 9% of the total qualified expenditures
8 incurred in connection with the state-certified production during the tax year.

9 (2) (a) The taxpayer is required to provide to the department, on a form prescribed by the department,
10 the amount of qualified expenditures. The form returned by the taxpayer must include the certification number
11 provided for in 15-31-904. The taxpayer shall also provide other information required by the department to verify
12 the accuracy of the qualified expenditures.

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

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

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

23 (5) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included
24 the amount of the qualified expenditure upon which the amount of the credit was computed as a deduction under
25 ~~45-30-2134~~ or 15-31-114. (Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L. 2007; secs.
26 1, 2, Ch. 186, L. 2009.)"

27

28 **Section 42.** Section 15-32-104, MCA, is amended to read:

29 **"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103 ~~and 15-32-109~~ is
30 limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel

1 extraction or conventional hydroelectric development."

2

3 **Section 43.** Section 15-32-106, MCA, is amended to read:

4 **"15-32-106. Procedure for obtaining benefit of deduction or credit.** ~~The department of revenue shall~~
 5 ~~provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of revenue shall
 6 approve a deduction or credit under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy conservation
 7 or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction or
 8 credit involving energy generation to the department of environmental quality for its advice, and the department
 9 of environmental quality shall respond within 60 days. The department of revenue may refer a deduction or credit
 10 involving energy conservation to the department of labor and industry for its advice, and the department of labor
 11 and industry shall respond within 60 days. The department of revenue may deny a deduction or credit that it finds
 12 to be impractical or ineffective."

13

14 **Section 44.** Section 15-32-115, MCA, is amended to read:

15 **"15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations. (1)**
 16 ~~A resident individual taxpayer or a person~~ corporation constructing a new residence ~~who~~ that completes
 17 installation of a geothermal system, as defined in 15-32-102, in ~~the taxpayer's~~ a principal dwelling ~~or in a~~
 18 ~~residence constructed by the taxpayer~~ is entitled to claim a tax credit against the taxpayer's tax liability under
 19 chapter ~~30~~ or 31 for a portion of the installation costs of the system, not to exceed \$1,500. Only one credit may
 20 be claimed for a residence. The amount of the credit not used in the year in which the installation is made may
 21 be carried forward against taxes imposed under chapter ~~30~~ or 31 for the 7 succeeding tax years. The entire
 22 amount of the credit not used in the year that it was earned must be carried first to the earliest tax year in which
 23 the credit may be applied and then to each succeeding tax year. A credit is not allowed under this section for
 24 expenditures claimed as a deduction under 15-32-103.

25 (2) For the purposes of this section, installation costs include the cost of:

26 (a) trenching, well drilling, casing, and downhole heat exchangers;

27 (b) piping, control devices, and pumps that move heat from the earth to heat or cool the building;

28 (c) ground source or ground coupled heat pumps;

29 (d) liquid-to-air heat exchanger, ductwork, and fans installed with a ground heat well that pump heat from
 30 a well into a building; and

1 (e) design and labor."

2

3 **Section 45.** Section 15-32-303, MCA, is amended to read:

4 **"15-32-303. Deduction for purchase of Montana-produced organic or inorganic fertilizer.** In
5 addition to all other deductions from adjusted gross individual income allowed in computing taxable income under
6 Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31,
7 part 1, a taxpayer corporation may deduct expenditures for organic fertilizer and inorganic fertilizer produced as
8 a byproduct produced in Montana and used in Montana if the expenditure was not otherwise deducted in
9 computing taxable income."

10

11 **Section 46.** Section 15-32-402, MCA, is amended to read:

12 **"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.**

13 (1) ~~An individual, A corporation, partnership, or small business corporation~~ as defined in ~~15-30-3304~~ 15-31-101
14 that makes an investment of \$5,000 or more in property that is depreciable under the Internal Revenue Code for
15 a commercial system or a net metering system, as defined in 69-8-103, that is located in Montana and that
16 generates energy by means of an alternative renewable energy source, as defined in 15-6-225, is entitled to a
17 tax credit against taxes imposed by ~~15-30-2103~~ or 15-31-121 in an amount equal to 35% of the eligible costs,
18 to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of
19 the following:

20 (a) manufacturing plants located in Montana that produce alternative energy generating equipment;

21 (b) a new business facility or the expanded portion of an existing business facility for which the
22 alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

23 (c) the alternative energy generating equipment in which the investment for which a credit is being
24 claimed was made.

25 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1),
26 eligible costs include only those expenditures that are associated with the purchase, installation, or upgrading
27 of:

28 (a) generating equipment;

29 (b) safety devices and storage components;

30 (c) transmission lines necessary to connect with existing transmission facilities; and

1 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no other
2 transmission facilities are available.

3 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the
4 state or federal government for the system."

5

6 **Section 47.** Section 15-32-404, MCA, is amended to read:

7 **"15-32-404. Carryover of credit.** (1) The tax credit allowed under 15-32-402 is to be deducted from that
8 portion of the taxpayer's tax liability as set forth in 15-32-402(1) for the tax year in which the equipment invested
9 in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the
10 tax year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability
11 in the next succeeding tax year or years until the total amount of the tax credit has been deducted from tax
12 liability. However, except as provided in subsection (2), a credit may not be carried beyond the seventh tax year
13 succeeding the tax year in which the equipment was placed in service.

14 (2) A credit may be extended through the 15th tax year succeeding the tax year in which the equipment
15 was placed in service if ~~an individual, a corporation, partnership, or small business corporation, as defined in~~
16 ~~15-30-3304:~~

17 (a) invests in a commercial system located within the exterior boundaries of a Montana Indian
18 reservation, which commercial system is 5 megawatts or larger in size; and

19 (b) signs an employment agreement with the tribal government of the reservation where the commercial
20 system would be constructed regarding the training and employment of tribal members in the construction,
21 operation, and maintenance of the commercial system."

22

23 **Section 48.** Section 15-32-502, MCA, is amended to read:

24 **"15-32-502. Definitions.** For purposes of this part, the following definitions apply:

25 (1) (a) "Certified expenditures" means those costs incurred for activities in direct support of exploration
26 activity conducted at a specific exploration site for the purpose of determining the existence, location, extent, or
27 quality of a mineral or coal deposit. The term includes:

28 (i) the costs of obtaining the approvals, permits, licenses, and certificates for an exploration activity
29 referred to in 15-32-503;

30 (ii) direct labor costs and the cost of benefits for employees directly associated with work described in

1 15-32-503;

2 (iii) the cost of renting or leasing equipment from parties not affiliated with the ~~person~~ corporation
3 requesting and taking the credit;

4 (iv) the reasonable costs of owning, maintaining, and operating equipment;

5 (v) insurance and bond premiums associated with the activities set out in subsections (1)(a)(i) through
6 (1)(a)(vii);

7 (vi) payments to consultants and independent contractors; or

8 (vii) the general expense of operating the ~~person's corporation's~~ corporation's business, including the costs of materials
9 and supplies, if those expenses and costs are directly attributable to the work described in 15-32-503.

10 (b) The term does not include return on investment, insurance or bond premiums not covered under
11 subsection (1)(a)(v), or any other expense that the ~~person~~ corporation has not incurred to complete work
12 described in 15-32-503.

13 ~~(2)~~ "Corporation" has the meaning provided in 15-31-101.

14 ~~(2)(3)~~ "Credit" means the exploration incentive credit for activities involving mineral and coal deposits
15 authorized by this part.

16 ~~(3)(4)~~ "Exploration activity data list" means, as applicable, a summary of work completed during the year
17 that includes but is not limited to:

18 (a) the number of core or rotary drilling holes completed;

19 (b) chemical analytical data available; or

20 (c) aerial photographs or a topographic or geologic map showing the location of the drill holes, sample
21 locations, or the other exploration activities undertaken.

22 ~~(4)(5)~~ "Geochemical methods" means geochemical data gathering methods, including the collection of
23 soil, rock, water, air, vegetation, and similar samples and their chemical analyses.

24 ~~(5)(6)~~ "Geophysical methods" means all geophysical data gathering methods used in mineral or coal
25 exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote
26 sensing measurements.

27 ~~(6)(7)~~ "Mineral" means those substances defined as minerals by 82-4-303 and coal as defined by
28 82-1-111.

29 ~~(7)(8)~~ (a) "Mining operation" includes all operating and nonoperating activities related to a mineral deposit
30 interest and may be composed of one or more mining properties.

1 (b) In determining whether mining properties are part of the same mining operation, the department may
2 consider whether the operation, in conducting mining activities on several mining properties, uses common
3 personnel, supply and maintenance facilities, mining-related treatment processes, storage facilities, roads,
4 pipelines, transportation equipment, and mining techniques and technology and may also consider the extent to
5 which the mineral deposit interest comprises a common mining property.

6 ~~(6) "Person" means a sole proprietorship, corporation, partnership, small business corporation as defined~~
7 ~~in 15-30-3301, or limited liability company as defined in 35-8-102.~~

8 (9) "Tax year" means the calendar year."
9

10 **Section 49.** Section 15-32-503, MCA, is amended to read:

11 **"15-32-503. Exploration incentive credit.** (1) The department shall grant to a ~~person~~ corporation a
12 credit against the ~~person's corporation's~~ tax liability under Title 15, chapter ~~30~~ or 31, for the certified expenditures
13 of the following exploration activities that are performed on land in the state for the purpose of determining the
14 existence, location, extent, or quality of a mineral or coal deposit, regardless of land ownership:

- 15 (a) surveying by geophysical or geochemical methods;
16 (b) drilling exploration holes;
17 (c) conducting underground exploration;
18 (d) surface trenching and bulk sampling; or
19 (e) performing other exploratory work, including aerial photographs, geological and geophysical logging,
20 sample analysis, and metallurgical testing.

21 (2) (a) Except as provided in subsection (3), credit may not be granted under subsection (1) for
22 exploration activity described in subsection (1) that occurs after the construction commencement date of a new
23 mine.

24 (b) For the purposes of this subsection (2), "construction commencement date of a new mine" means
25 the date no later than which all of the following have occurred:

- 26 (i) there has been issued to the owner or an agent of the owner permits, leases, title and other rights in
27 land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a
28 reasonable and prudent person would consider adequate to commence construction of a mine in the expectation
29 that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be
30 obtained;

1 (ii) all approvals, permits, licenses, and certificates are in full force and effect and without any modification
2 that might jeopardize the completion or continued construction of the mine; and

3 (iii) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency
4 enjoining, either temporarily or permanently, the construction or the continuation of construction of the mine is
5 not in effect.

6 (3) In addition to the grant of a credit for a new mine under subsection (2), a credit may be granted under
7 subsection (1) for exploration activity for a mine that had previously operated, that has ceased to operate, and
8 for which all previous mining approvals, permits, licenses, and certificates that allowed the previous operation
9 are no longer in effect. However, a credit may not be granted under subsection (1) for exploration activity that
10 occurs after the mine reopening date. For the purposes of this subsection (3), "mine reopening date" means the
11 date not later than which all of the following have occurred:

12 (a) there has been issued to the owner or an agent of the owner permits, leases, title and other rights
13 in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a
14 reasonable and prudent person would consider adequate to commence operation of the former mine in the
15 expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the
16 facilities will be obtained;

17 (b) all approvals, permits, licenses, and certificates for the reopened mine are in full force and effect and
18 without any modification that might jeopardize the reopening of the former mine; and

19 (c) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency
20 enjoining, either temporarily or permanently, the reopening of the former mine is not in effect."

21

22 **Section 50.** Section 15-32-504, MCA, is amended to read:

23 **"15-32-504. Procedure for requesting and certifying credit.** To obtain the credit authorized by this
24 part, a ~~person~~ corporation shall submit a request to the department for the credit as follows:

25 (1) On a form provided by the department, the ~~person~~ corporation shall submit the request and a
26 statement of expenditures for the previous calendar year not later than 60 days after the close of that calendar
27 year.

28 (2) The request must:

29 (a) describe the work accomplished during the previous year, the number of employees, and the names
30 and number of consultants; and

1 (b) provide a detailed list or ledger of expenditures related to the accomplishments described in
2 subsection (2)(a) and an exploration activity data list.

3 (3) The person corporation submitting the request is not required to transmit copies of receipts with the
4 request, but the statement of expenditures is subject to audit at the discretion of the department.

5 (4) If the department decides to audit the statement of expenditures, the department may require the
6 person corporation submitting the request to justify claims of expenditures with receipts and other reliable
7 information.

8 (5) The department shall respond to the request by September 30 by certifying or not certifying the
9 person's corporation's expenditures. If the department does not certify expenditures, the department shall state
10 the reasons for denial of certification and give the person corporation making the request an opportunity to correct
11 any deficiencies or to provide additional information. If the department certifies expenditures, the department shall
12 specify the exploration activity data list requirements for that year that must be presented to the department at
13 the time of the taking of the credit.

14 (6) If the department neither certifies nor denies certification of expenditures by September 30, the
15 expenditures are certified as submitted."
16

17 **Section 51.** Section 15-32-505, MCA, is amended to read:

18 **"15-32-505. Application of credit.** (1) In a tax year, a person corporation may take a credit that was
19 approved under 15-32-504 against taxes payable by the person corporation. The credit may not exceed 50% of
20 the person's corporation's tax liability under either Title 15, chapter ~~30~~ or 31, for the tax year that is related to
21 production from the mining operation at which the exploration activities occurred.

22 (2) If a person corporation applies the credit against the person's corporation's tax liability under
23 subsection (1), the department shall disallow application of the credit under that provision unless the person
24 corporation files with the person's corporation's tax return an accounting of the person's corporation's exploration
25 activities for each mining operation that is included in the tax return and as to which the credit is being applied.
26 The accounting of exploration activities required by this subsection must be made on a form prescribed by the
27 department. On the form, the person corporation shall:

28 (a) identify the mining operations for which the credit is claimed; and

29 (b) set out the gross income attributable to the mining operations and other information about the mining
30 operations that the department may require.

1 (3) A person corporation may not apply the credit under this section if the application, when added to
2 credits previously applied under this section, would exceed the total amount of the credits approved under
3 15-32-504."

4

5 **Section 52.** Section 15-32-507, MCA, is amended to read:

6 **"15-32-507. Credit limitation.** A credit for each distinct mining operation may not exceed a total of \$20
7 million for all exploration activities under 15-32-503 and accrues at the rate of 50% of the certified expenditures
8 each year. The credit must be applied within 15 tax years after the taking of the credit is approved under
9 15-32-504. However, the tax year or years in which the credit is applied need not be:

10 (1) the tax year in which the person corporation first incurs liability for payment of tax based on the
11 person's corporation's activity that is the basis of the claim for the credit; or

12 (2) consecutive tax years."

13

14 **Section 53.** Section 15-32-508, MCA, is amended to read:

15 **"15-32-508. Credit assignment.** A person corporation may assign a credit to the person's corporation's
16 successor in interest for the mining operation at which the exploration activities occur, but only if the successor
17 in interest is a person corporation qualified to obtain the credit under 15-32-503. A credit may not be assigned
18 except as permitted in this section."

19

20 **Section 54.** Section 15-32-509, MCA, is amended to read:

21 **"15-32-509. Record of credit use.** For each mining operation, the department may require a person
22 corporation who submits a request to take the credit under 15-32-504 to provide with the request a record of:

23 (1) the person's corporation's past use of credits taken under 15-32-504 and 15-32-505; and

24 (2) other information that the department requires to determine if approval of the taking of the credit by
25 the person corporation would exceed the limits on use of the credit under this part."

26

27 **Section 55.** Section 15-32-510, MCA, is amended to read:

28 **"15-32-510. Deduction for donation of exploration information.** (1) In addition to all other deductions
29 ~~from adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from~~
30 gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a ~~taxpayer~~

1 corporation may deduct documented expenses for the donation of mineral exploration information generated as
 2 part of the certified expenditures. The information must be donated to the Montana tech foundation to reside as
 3 part of the Montana tech research library, and the documented expenses must be based on the cost of recreating
 4 the donated information.

5 (2) The Montana tech foundation has the right to limit information accepted and deductions granted to
 6 that exploration activity data that is needed as part of the Montana tech research library.

7 (3) A deduction under this section may not exceed 20% of the actual value of the data if a tax credit for
 8 the same exploration activity data is taken under this part."

9

10 **Section 56.** Section 15-32-602, MCA, is amended to read:

11 **"15-32-602. Amount and duration of credit -- how claimed.** (1) ~~An individual, A corporation,~~
 12 ~~partnership, or small business corporation, as defined in 15-30-3301,~~ A corporation, may receive a credit against taxes imposed
 13 by Title 15, chapter ~~30 or~~ 31, for investments in depreciable property to collect or process reclaimable material
 14 or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

15 (2) Subject to subsection (4), a taxpayer qualifying for a credit under 15-32-603 is entitled to claim a
 16 credit, as provided in subsection (3), for the cost of each item of property purchased to collect or process
 17 reclaimable material or to manufacture a product from reclaimed material only in the year in which the property
 18 was purchased.

19 (3) The amount of the credit that may be claimed under this section for investments in depreciable
 20 property is determined according to the following schedule:

21 (a) 25% of the cost of the property on the first \$250,000 invested;

22 (b) 15% of the cost of the property on the next \$250,000 invested; and

23 (c) 5% of the cost of the property on the next \$500,000 invested.

24 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million."

25

26 **Section 57.** Section 15-32-603, MCA, is amended to read:

27 **"15-32-603. Credit for investment in property used to collect or process reclaimable material or**
 28 **to manufacture a product from reclaimed material.** (1) The following requirements must be met to be entitled
 29 to a tax credit for investment in property to collect or process reclaimable material or to manufacture a product
 30 from reclaimed material:

1 (a) The investment must be for depreciable property used primarily to collect or process reclaimable
2 material or to manufacture a product from reclaimed material.

3 (b) (i) The taxpayer claiming a credit must be a ~~person who~~ corporation that, as an owner, including a
4 contract purchaser or lessee, or ~~who~~ pursuant to an agreement owns, leases, or has a beneficial interest in a
5 business that collects or processes reclaimable material or that manufactures a product from reclaimed material.
6 For the purposes of this section, a business qualifies as a business that collects reclaimable material if it gathers
7 reclaimable material for later sale or processing for another business that has as its primary business function
8 the collection or processing of reclaimable material or the manufacture of a product from reclaimed material. The
9 collection of reclaimable material may be a minor or nonprofit part of a business otherwise engaged in a retail
10 trade or other business activity.

11 (ii) The taxpayer may but need not operate or conduct a business that collects or processes reclaimable
12 material or manufactures a product from reclaimed material. If more than one ~~person~~ corporation has an interest
13 in a business with qualifying property, ~~they~~ the corporations may allocate all or any part of the investment cost
14 among ~~themselves~~ the corporations and their successors or assigns.

15 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except
16 as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable material or
17 manufacturing a product from reclaimed material during the tax year for which the credit is claimed.

18 (d) The reclaimed material collected, processed, or used to manufacture a product may not be an
19 industrial waste generated by the person claiming the tax credit unless:

20 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed landfill;
21 and

22 (ii) standard industrial practice has not generally included the reuse of the waste in the manufacturing
23 process.

24 (2) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
25 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

26 (3) A tax credit otherwise allowable under this section that is not used by the taxpayer in the taxable year
27 may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

28 (4) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax
29 credits allowed under this section.

30 ~~(5) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~

1 ~~computed using the shareholder's pro-rata share of the corporation's cost of investing in equipment necessary~~
 2 ~~to collect or process reclaimable material or to manufacture a product from reclaimed material. In all other~~
 3 ~~respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law."~~

4

5 **Section 58.** Section 15-32-610, MCA, is amended to read:

6 **"15-32-610. Deduction for purchase of recycled material.** In addition to all other deductions from
 7 ~~adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from gross~~
 8 ~~corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer corporation~~ may
 9 deduct an additional amount equal to 10% of the taxpayer's corporation's expenditures for the purchase of
 10 recycled material that was otherwise deductible by the taxpayer corporation as business-related expense in
 11 Montana."

12

13 **Section 59.** Section 15-32-701, MCA, is amended to read:

14 **"15-32-701. Oilseed crush facility -- tax credit.** (1) ~~An individual, A corporation, partnership, or small~~
 15 ~~business corporation,~~ as defined in ~~45-30-3304~~ 15-31-101, may receive a credit against taxes imposed by Title
 16 15, chapter ~~30~~ or 31, for the costs of investments in depreciable property in Montana that is used primarily for
 17 crushing oilseed crops for purposes of producing biodiesel or biolubricant.

18 (2) Subject to subsection (4), a taxpayer qualifying for a credit under this section is entitled to claim a
 19 credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before
 20 the facility begins crushing oilseed or in any tax year in which the facility is crushing oilseed.

21 (3) The total amount of credits for all years that may be claimed for a facility under this section is 15%
 22 of the costs described in subsection (1), up to a total of \$500,000.

23 (4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this
 24 section:

25 (a) The depreciable property for which the credit is claimed must begin to be used for the purposes
 26 described in subsection (1) before January 1, 2015.

27 (b) (i) The taxpayer claiming a credit must be a ~~person who~~ corporation that as an owner, including a
 28 contract purchaser or lessee, or ~~who that~~ pursuant to an agreement owns, leases, or has a beneficial interest in
 29 a business that crushes oilseed or that manufactures a product from crushed oilseed.

30 (ii) If more than one ~~person~~ corporation has an interest in a business with qualifying property, ~~they the~~

1 corporations may allocate all or any part of the investment cost among ~~themselves~~ the corporations and their
2 successors or assigns.

3 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except
4 as otherwise provided in subsection (4)(b), and, except for the 2 tax-year period claimed in subsection (2), must
5 have been using the depreciable property for the purposes described in subsection (1) during the tax year for
6 which the credit is claimed and during each year for which the credit is carried forward.

7 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
8 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

9 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
10 in which the credit is initially claimed may be carried forward for credit against a taxpayer's tax liability for any
11 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
12 not be carried forward to any tax year in which the facility in which the depreciable property is installed is not
13 crushing oilseed or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility
14 in which property is installed and for which a credit is claimed ceases production of biodiesel or biolubricant for
15 a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within
16 5 years after a year in which the credit was carried forward, the credit is subject to recapture. The ~~person~~
17 corporation claiming the credit is liable for the total amount of the credit in the event of recapture.

18 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax
19 credits allowed under this section.

20 ~~(6) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~
21 ~~computed using the shareholder's pro rata share of the corporation's cost of investing in equipment necessary~~
22 ~~to crush oilseed or to manufacture a product from oilseed. In all other respects, the allowance and effect of the~~
23 ~~tax credit apply to the corporation as otherwise provided by law.~~

24 ~~(9)(8)~~ For the purposes of this section, "biolubricant" means a commercial or industrial product, other
25 than food or feed, that is composed in whole or in substantial part of biological products, renewable domestic
26 agricultural materials, including plant, animal, or marine materials, or forestry materials and that is used in place
27 of a petroleum-based lubricant."

28

29 **Section 60.** Section 15-32-702, MCA, is amended to read:

30 **"15-32-702. Biodiesel or biolubricant production facility tax credit.** (1) ~~An individual,~~ A corporation,

1 ~~partnership, or small business corporation,~~ as defined in ~~15-30-3304~~ 15-31-101, may receive a credit against
2 taxes imposed by Title 15, chapter ~~30~~ or 31, for the costs of investments in depreciable property for constructing
3 or equipping a facility, or both, in Montana to be used for biodiesel or biolubricant production.

4 (2) Subject to subsection (4), a taxpayer qualifying for a credit under this section is entitled to claim a
5 credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before
6 the facility begins producing biodiesel or biolubricant or in any tax year in which the facility is producing biodiesel
7 or biolubricant.

8 (3) The total amount of the credits for all years that may be claimed for a facility under this section is 15%
9 of the costs described in subsection (1).

10 (4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this
11 section:

12 (a) The depreciable property for which the credit is claimed must begin operating before January 1, 2015.

13 (b) (i) The taxpayer claiming a credit must be a ~~person~~ corporation that as an owner, including a
14 contract purchaser or lessee, or ~~who~~ that pursuant to an agreement owns, leases, or has a beneficial interest in
15 a business that manufactures biodiesel or biolubricant.

16 (ii) If more than one ~~person~~ corporation has an interest in a business with qualifying property, ~~they~~ the
17 corporations may allocate all or any part of the investment cost among ~~themselves~~ the corporations and their
18 successors or assigns.

19 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except
20 as otherwise provided in subsection (4)(b), and, except for the 2 tax-year period claimed in subsection (2), must
21 have been producing biodiesel or biolubricant during the tax year for which the credit is claimed and during each
22 year in which the credit is carried forward.

23 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
24 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

25 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
26 in which the credit was initially taken may be carried forward for credit against a taxpayer's tax liability for any
27 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
28 not be carried forward to any tax year in which the facility in which the depreciable property is installed is not
29 producing biodiesel or biolubricant or beyond the 7th tax year after the tax year for which the credit was initially
30 claimed. If a facility for which a credit is claimed ceases production of biodiesel or biolubricant for a period of 12

1 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a
 2 year in which the credit was carried forward, the credit is subject to recapture. The ~~person~~ corporation claiming
 3 the credit is liable for the total amount of the credit in the event of recapture.

4 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax
 5 credits allowed under this section.

6 ~~(6) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~
 7 ~~computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel or~~
 8 ~~biolubricant production facility. In all other respects, the allowance and effect of the tax credit apply to the~~
 9 ~~corporation as otherwise provided by law.~~

10 ~~(9)~~(8) As used in this section, the following definitions apply:

11 (a) "Biodiesel" has the meaning provided in 15-70-301.

12 (b) "Biolubricant" has the meaning provided in ~~15-32-701(9)~~ 15-32-701(8)."

13

14 **Section 61.** Section 15-32-703, MCA, is amended to read:

15 **"15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.**

16 ~~(1) An individual, A corporation, partnership, or small business corporation, as defined in 15-30-3304~~ 15-31-101,
 17 may receive a credit against taxes imposed by Title 15, chapter ~~30~~ or 31, for the costs of investments in
 18 depreciable property used for storing or blending biodiesel with petroleum diesel for sale.

19 (2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet
 20 qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs
 21 described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for sale
 22 or in any tax year in which the taxpayer is blending biodiesel fuel for sale.

23 (3) (a) The total amount of the credits for all years that may be claimed by a distributor under this section
 24 is 15% of the costs described in subsection (1), up to a total of \$52,500.

25 (b) The total amount of the credits for all years that may be claimed by an owner or operator of a motor
 26 fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of \$7,500.

27 (4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this
 28 section:

29 (a) The investment must be for depreciable property used primarily to blend petroleum diesel with
 30 biodiesel made entirely from Montana-produced feedstocks.

1 (b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year
2 following the initial tax year in which the credit is initially claimed.

3 (c) (i) The taxpayer claiming a credit must be a ~~person who~~ corporation that as an owner, including a
4 contract purchaser or lessee, or ~~who that~~ pursuant to an agreement owns, leases, or has a beneficial interest in
5 a business that blends biodiesel.

6 (ii) If more than one ~~person~~ corporation has an interest in a business with qualifying property, ~~they the~~
7 corporations may allocate all or any part of the investment cost among ~~themselves~~ the corporations and their
8 successors or assigns.

9 (d) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except
10 as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection (2), must
11 have been blending biodiesel during the tax year for which the credit is claimed.

12 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
13 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

14 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
15 in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any
16 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
17 not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending
18 or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit
19 is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within
20 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was
21 carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total
22 credit is subject to recapture. The ~~person~~ corporation claiming the credit is liable for the total amount of the credit
23 in the event of recapture.

24 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax
25 credits allowed under this section.

26 ~~(8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~
27 ~~computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending~~
28 ~~facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise~~
29 ~~provided by law.~~

30 ~~(9)(8)~~ As used in this section, "biodiesel" has the meaning provided in 15-70-301.

1 ~~(10)~~(9) The department shall report to the revenue and transportation interim committee at least once
 2 each year regarding the number and type of taxpayers claiming the credit under this section, the total amount
 3 of the credit claimed, and the department's cost associated with administering the credit."
 4

5 **Section 62.** Section 15-33-106, MCA, is amended to read:

6 **"15-33-106. Capital gains -- dividends exempted.** Any capital gains or dividend income realized by
 7 ~~an individual~~ or a corporation from an investment in an SBIC organized in accordance with this part is exempt
 8 from taxation under the provisions of Title 15, ~~chapters 30 and~~ chapter 31."
 9

10 **Section 63.** Section 15-61-202, MCA, is amended to read:

11 **"15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, ~~the amount of principal~~
 12 ~~provided for in subsection (2) contributed annually by an employee or account holder to an account and all~~
 13 interest or other income on ~~that principal~~ that was contributed to a medical care savings account prior to January
 14 1, 2014, may be excluded from the ~~adjusted gross~~ Montana taxable income of the employee or account holder
 15 and ~~are~~ is exempt from taxation, in accordance with ~~15-30-2110(2)(j)~~ [section 2], as long as the principal and
 16 interest or other income is contained within the account or withdrawn only for payment of eligible medical
 17 expenses or for the long-term care of the employee or account holder or a dependent of the employee or account
 18 holder. Any part of the principal or income, or both, withdrawn from an account may not be excluded under
 19 ~~subsection (2) and~~ this subsection if the amount is withdrawn from the account and used for a purpose other than
 20 an eligible medical expense or the long-term care of the employee or account holder or a dependent of the
 21 employee or account holder.

22 ~~(2) An employee or account holder may exclude as an annual contribution in 1 year not more than~~
 23 ~~\$3,000. There~~ For contributions that were made prior to January 1, 2014, there is no limitation on the amount of
 24 funds and interest or other income on those funds that may be retained tax-free within an account.

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

28 ~~————(4) An employee or account holder may in 1 year deposit into an account more than the amount excluded~~
 29 ~~pursuant to subsection (2) if the exemption claimed by the employee or account holder in the year does not~~
 30 ~~exceed \$3,000. An employee or account holder who deposits more than \$3,000 into an account in a year may~~

1 ~~exclude from the employee's or account holder's adjusted gross income in accordance with 15-30-2110(2)(j) in~~
 2 ~~a subsequent year any part of \$3,000 per year not previously excluded.~~

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

8 ~~(6)(4)~~ The employee or account holder who establishes the account is the owner of the account. An
 9 employee or account holder may withdraw money in an account and deposit the money in another account with
 10 a different or with the same account administrator without incurring tax liability.

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

14 ~~(8)(6)~~ Within 30 days of being furnished proof of the death of the employee or account holder, the
 15 account administrator shall distribute the principal and accumulated interest or other income in the account to the
 16 estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

17

18 **Section 64.** Section 15-61-203, MCA, is amended to read:

19 **"15-61-203. Withdrawal of funds from account for purposes other than medical expenses and**
 20 **long-term care.** (1) An employee or account holder may withdraw money from the individual's medical care
 21 savings account for any purpose other than an eligible medical expense or the long-term care of the employee
 22 or account holder or a dependent of the employee or account holder only on the last business day of the account
 23 administrator's business year. Money withdrawn from an account pursuant to this subsection that had been
 24 excluded from taxation pursuant to 15-61-202 must be taxed as ordinary income of the employee or account
 25 holder.

26 (2) If the employee or account holder withdraws money from the account other than for eligible medical
 27 expenses or long-term care or other than on the last business day of the account administrator's business year,
 28 the administrator shall withhold from the amount of the withdrawal and, on behalf of the employee or account
 29 holder, pay as a penalty to the department of revenue an amount equal to 10% of the amount of the withdrawal.
 30 Payments made to the department pursuant to this section must be deposited in the general fund. Money

1 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or
 2 account holder if it had been excluded from taxation pursuant to 15-61-202.

3 (3) For the purposes of this section, "last business day of the account administrator's business year",
 4 as applied to an account administrator who is also the account holder or an employee, means the last weekday
 5 in December."
 6

7 **Section 65.** Section 15-62-208, MCA, is amended to read:

8 **"15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at
 9 a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that
 10 ~~reduced adjusted gross income under 15-30-2110(11)~~ were deducted from income in calculating Montana
 11 individual income taxes.

12 (2) For purposes of determining the portion of a recapturable withdrawal that reduced ~~adjusted gross~~
 13 ~~income~~ Montana individual income taxes, all withdrawals must be allocated between income and contributions
 14 in accordance with the principles applicable under section 529(c)(3)(A) of the Internal Revenue Code of 1986,
 15 26 U.S.C. 529(c)(3)(A). The portion of a recapturable withdrawal that is allocated to contributions must be treated
 16 as derived first from contributions, if any, that did not reduce ~~adjusted gross income~~ Montana individual income
 17 taxes, to the extent of those contributions, and then to contributions that reduced ~~adjusted gross income~~ Montana
 18 individual income taxes. The portion of any other withdrawal that is allocated to contributions must be treated as
 19 first derived from contributions that reduced ~~adjusted gross~~ Montana individual income taxes, to the extent of the
 20 contributions, and then to contributions that did not reduce ~~adjusted gross~~ Montana individual income taxes.

21 (3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the
 22 withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account
 23 owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income
 24 tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the
 25 account owner is not a Montana resident at the time of the withdrawal.

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

30 (4) For the purposes of this section, all contributions made to accounts by residents of Montana are

1 presumed to have reduced the contributor's ~~adjusted gross income~~ Montana individual income taxes unless the
 2 contributor can demonstrate that all or a portion of the contributions did not reduce ~~adjusted gross income~~
 3 Montana individual income taxes. ~~Contributors who claim deductions for contributions shall report on their~~
 4 ~~Montana income tax returns the amount of deductible contributions made to accounts for each designated~~
 5 ~~beneficiary and the social security number of each designated beneficiary.~~

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

8 (a) April 30, 2001; or

9 (b) the date that is 3 years prior to the date of the withdrawal or distribution.

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

12

13 **Section 66.** Section 15-63-202, MCA, is amended to read:

14 **"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of principal
 15 provided for in subsection (2) contributed annually prior to January 1, 2014, by an account holder to an account
 16 and all interest or other income on the principal that was contributed prior to January 1, 2014, may be excluded
 17 from the ~~adjusted gross~~ Montana taxable income of the account holder and is exempt from taxation, in
 18 accordance with ~~15-30-2110(2)(k)~~ [section 2], as long as the principal and interest or other income is contained
 19 within the account or withdrawn only for eligible costs for the purchase of a single-family residence by a first-time
 20 home buyer. Any part of the principal or income, or both, withdrawn from an account may not be excluded under
 21 ~~subsection (2) and this subsection~~ if the amount is withdrawn from the account and used for a purpose other than
 22 for eligible costs for the purchase of a single-family residence.

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

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

26 ~~_____ (c) There~~ For contributions to principal that were made prior to January 1, 2014, there is no limitation on
 27 the amount of principal and interest or other income on the principal that may be retained tax-free within an
 28 account.

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

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

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

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

14 ~~(6)(3)~~ The account holder who establishes the account, individually or jointly, is the owner of the account.
 15 An account holder may withdraw money in an account and deposit the money in another account with a different
 16 account administrator or with the same account administrator without incurring tax liability.

17 ~~(7)(4)~~ The account holder shall use the money in the account for the eligible costs related to the
 18 purchase of a single-family residence within 10 years following the year in which the account was established.
 19 Any principal and income in the account not expended on eligible costs at the time of purchase of a single-family
 20 residence or any principal or income remaining in the account on December 31 of the last year of the 10-year
 21 period must be taxed as ordinary income.

22 ~~(8)(5)~~ The amount of a disbursement of any assets of a first-time home buyer savings account pursuant
 23 to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account
 24 holder does not subject the account holder to tax liability.

25 ~~(9)(6)~~ Within 30 days of being furnished proof of the death of the account holder, the account
 26 administrator shall distribute the principal and accumulated interest or other income in the account to the estate
 27 of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."
 28

29 **Section 67.** Section 16-11-110, MCA, is amended to read:

30 **"16-11-110. Signature alternatives for electronically filed returns.** For purposes of Title 15, chapters

1 1, 2, 6 through 10, 15 through 18, 23, 24, 30 through 33, 35 through 38, 44, 50, 51, 53, 59 through 61, and 65,
 2 and Title 16, chapter 11, the director of revenue, and for the purposes of Title 15, chapter 70, the director of the
 3 department of transportation, may prescribe, by rule, methods for signing, subscribing, or verifying electronically
 4 filed tax returns. Returns electronically filed in accordance with the methods adopted by rule have the same
 5 validity and consequences as physical forms signed by a taxpayer."

6

7 **Section 68.** Section 17-6-316, MCA, is amended to read:

8 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to
 9 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer
 10 systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of
 11 a business in Montana. The loan must be made to a local government that will create the necessary
 12 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan
 13 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of
 14 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made
 15 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate
 16 reduction passes through to the business creating the jobs.

17 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the
 18 condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received
 19 pursuant to subsection (3) of this section must be returned to the state.

20 (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and
 21 subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter ~~30~~ 31, for the
 22 portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not
 23 exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."

24

25 **Section 69.** Section 19-2-1004, MCA, is amended to read:

26 **"19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909,
 27 the right of a person to any benefit or payment from a retirement system or plan and the money in the system or
 28 plan's pension trust fund is not:

29 (1) subject to execution, garnishment, attachment, or any other process;

30 (2) subject to ~~state~~, county, or municipal taxes except for:

1 ~~—— (a) a benefit or annuity received in excess of the amount determined pursuant to 15-30-2110(2)(c); or~~

2 ~~—— (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as~~
3 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

4 (3) assignable except as specifically provided in this chapter."
5

6 **Section 70.** Section 19-17-407, MCA, is amended to read:

7 **"19-17-407. Exemption from taxation and legal process.** ~~(1) The amount determined pursuant to~~
8 ~~15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.~~

9 ~~—— (2) Benefits received under this part are not subject to execution, garnishment, attachment, or any other~~
10 process."
11

12 **Section 71.** Section 19-18-612, MCA, is amended to read:

13 **"19-18-612. Protection of benefits from legal process and taxation -- nonassignability.** ~~(1) Except~~
14 for execution or withholding for the payment of child support or for the payment of spousal support for a spouse
15 or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are
16 not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not
17 assign the right, and the association and trustees may not recognize any assignment or pay over any sum
18 assigned.

19 ~~(2) The amount determined pursuant to 15-30-2110(2)(c) of benefits received under this part is exempt~~
20 ~~from state, county, and municipal taxation."~~
21

22 **Section 72.** Section 19-19-504, MCA, is amended to read:

23 **"19-19-504. Protection of benefits from legal process and taxation.** ~~(1) Except for execution or~~
24 withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse
25 who is the custodial parent of the child, the benefits provided for in this part are not subject to execution,
26 garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are
27 unassignable except as specifically provided in 19-19-505.

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

1 **Section 73.** Section 19-20-706, MCA, is amended to read:

2 **"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and
3 19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the
4 provisions of the retirement system and the accumulated contributions and cash and securities in the various
5 funds of the retirement system are:

6 (1) exempted from any ~~state, county, or municipal tax of the state of Montana~~ except for:

7 ~~—— (a) a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c);~~

8 ~~or~~

9 ~~—— (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June~~
10 30, 1985, as provided in 19-20-602;

11 (2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity,
12 or any other process; and

13 (3) unassignable except as specifically provided in this chapter."
14

15 **Section 74.** Section 19-21-212, MCA, is amended to read:

16 **"19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or
17 withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse
18 who is the custodial parent of the child, contracts, benefits, and contributions under the optional retirement
19 program and the earnings on the contributions are:

20 (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to~~
21 ~~15-30-2110(2)(c);~~ exempt from any ~~state, county, or municipal tax;~~

22 (2) not subject to execution, garnishment, attachment, or other process;

23 (3) not covered or assessable by an insurance guaranty association; and

24 (4) unassignable except as specifically provided in the contracts."
25

26 **Section 75.** Section 33-22-2006, MCA, is amended to read:

27 **"33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for**
28 **small employer health insurance premiums paid -- eligibility for small group coverage -- amounts.** (1) An
29 employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit
30 under this part if the employer and any related employers:

1 (a) did not have more than the number of employees established for eligibility by the commissioner at
2 the time of registering for premium incentive payments or premium assistance payments or a tax credit under
3 33-22-2008;

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

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

7 (d) have been registered as eligible small employer participants by the commissioner as provided in
8 33-22-2008; and

9 (e) do not have any employees, not including an owner, partner, or shareholder of the business, who
10 received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in
11 the prior tax year.

12 (2) An owner, partner, or shareholder of a business who received more than \$75,000 in wages, as
13 defined in 39-71-123, and those individuals' spouses who are employees are not eligible under this chapter for:

14 (a) any premium assistance payment. However, a premium incentive payment may be made for the
15 premium share paid by the business for group health insurance coverage for:

16 (i) the owner, partner, or shareholder;

17 (ii) a spouse of those listed in subsection (2)(a)(i) who is also an employee of the business; or

18 (iii) dependents of those listed in subsection (2)(a)(i).

19 (b) a tax credit for group health insurance premiums paid by the business or the owner, partner, or
20 shareholder for group health insurance coverage for the individual or the individual's dependents.

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

25 (4) The commissioner shall establish, by rule, the maximum number of employees that may be employed
26 to qualify as a small employer under subsection (1). However, the number may not be less than two employees
27 or more than nine employees. The maximum number may be different for employers seeking premium incentive
28 payments and premium assistance payments than for employers seeking a tax credit. The number must be set
29 to maximize the number of employees receiving coverage under this part. The commissioner may not change
30 the maximum employee number more often than every 6 months. If the maximum number of allowable employees

1 is changed, the change does not disqualify registered employers with respect to the tax year for which the
2 employer has registered.

3 (5) Except as provided in subsection (6), an eligible small employer that is a corporation, as defined in
4 15-31-101, may claim a tax credit against taxes imposed by Title 15, chapter 31, in the following amounts:

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

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

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

14 (6) An employer may not claim a tax credit:

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

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

17 (c) for premiums for which a deduction is claimed under ~~15-30-2131~~ or 15-31-114.

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

20

21 **Section 76.** Section 33-22-2007, MCA, is amended to read:

22 **"33-22-2007. Filing for tax credit -- filing for premium incentive payments and premium assistance**
23 **payments.** (1) An eligible small employer may:

24 (a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15,
25 chapter ~~30~~ or 31; or

26 (b) if the eligible small employer did not sponsor a group health plan that provides creditable coverage
27 for employees during the 2 years prior to the first tax year of registration for the premium incentive payments or
28 premium assistance payments or operates a new business that is less than 2 years old and has never sponsored
29 a group health plan that provides creditable coverage, apply to receive monthly premium incentive payments and
30 premium assistance payments to be applied to coverage obtained through the purchasing pool or qualified

1 association health plan coverage approved by the commissioner.

2 (2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for
3 the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided
4 for in subsection (1)(b).

5 (3) The premium incentive payments and premium assistance payments provided for in subsection (1)(b)
6 must be paid pursuant to a plan of operation implemented by the board and any applicable administrative rules.

7 (4) (a) If an eligible small employer is a corporation, as defined in 15-31-101, and an eligible small
8 employer's tax credit as provided in subsection (1)(a) exceeds the employer's liability under ~~15-30-2403 or~~
9 15-31-121, the amount of the excess must be refunded to the eligible small employer. The tax credit may be
10 claimed even if the eligible small employer that is a corporation has no tax liability under ~~15-30-2403 or~~
11 15-31-121.

12 (b) A tax credit is not allowed under ~~15-30-2367~~, 15-31-132; or any other provision of Title 15, chapter
13 ~~30 or~~ 31, with respect to any amount for which a tax credit is allowed under this part.

14 (5) The department of revenue or the commissioner may grant a reasonable extension for filing a claim
15 for premium incentive payments or premium assistance payments or a tax credit whenever, in the department's
16 or the commissioner's judgment, good cause exists. The department of revenue and the commissioner shall keep
17 a record of each extension and the reason for granting the extension.

18 (6) (a) If an employer that would have a claim under this part ceases doing business before filing the
19 claim, the representative of the employer who files the tax return or pays the premium may file the claim.

20 (b) If a corporation that would have a claim under this part merges with or is acquired by another
21 corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium
22 incentive payments, premium assistance payments, or tax credit in the future, the surviving or acquired
23 corporation may file for the premium incentive payments, premium assistance payments, or tax credit for any
24 claim period during which the former eligible corporation remained eligible.

25 (c) If an employer that would have a claim under this part files for bankruptcy protection, the receiver may
26 file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during
27 which the employer was eligible."

28

29 **Section 77.** Section 33-22-2008, MCA, is amended to read:

30 **"33-22-2008. Registration -- funding limitations -- transfers -- maximum number -- waiting list --**

1 **information transfer for tax credits.** (1) (a) Each eligible small employer that proposes to apply for premium
2 incentive payments and premium assistance payments or a tax credit against taxes imposed by Title 15, chapter
3 31, under this part must be registered each year with the commissioner.

4 (b) An eligible small employer may submit a new application for the premium incentive payments and
5 premium assistance payments or the tax credit anytime during the year, but in order to maintain the employer's
6 registration for the next year, the registration application must be renewed each year.

7 (c) The registration application must include the number of individuals covered, as of the date of the
8 registration application, under the small group health plan for which the employer is seeking premium incentive
9 payments and premium assistance payments or a tax credit. If, after the initial registration, the number of
10 individuals increases, the employer may apply to register the additional individuals, but those additional
11 individuals may be added only at the discretion of the commissioner, who shall limit enrollment based on available
12 funds.

13 (d) A small employer is not eligible to apply for premium incentive payments and premium assistance
14 payments or a tax credit for a number of employees, or the employees' spouses or dependents, over the number
15 that has been established in 33-22-2006 as the maximum number of employees an employer may have in order
16 to qualify for registration for the time period in question.

17 (e) An employer's decision to apply for premium incentive payments and premium assistance payments
18 or a tax credit against taxes imposed by Title 15, chapter 31, is irrevocable for 12 months or until the purchasing
19 pool group health plan or qualified association health plan renews its registration, whichever time period is less.
20 An employer may choose to discontinue receiving any premium incentive payments and premium assistance
21 payments or tax credits at any time.

22 (2) The commissioner shall register qualifying eligible small employers in the order in which applications
23 are received and according to whether or not the application is for premium incentive payments and premium
24 assistance payments or a tax credit against taxes imposed by Title 15, chapter 31. Initially, 60% of the available
25 funding must be dedicated to provide and maintain premium incentive payments and premium assistance
26 payments for eligible small employers who have not sponsored group health plans that provide creditable
27 coverage in the previous 2 years and who chose to join the purchasing pool or a qualified association health plan
28 and 40% of the available funding must be dedicated to tax credits for eligible small employers who currently
29 sponsor a small group health plan that provides creditable coverage. Funding may be transferred from the
30 allocated fund for premium incentive payments and premium assistance payments to the general fund for tax

1 credits or from the funds allocated for tax credits to the allocated fund for premium incentive payments and
2 premium assistance payments if the board requests the transfer as provided in 33-22-2004 and the commissioner
3 approves the request.

4 (3) (a) The maximum number of eligible small employers is reached when the anticipated amount of
5 claims for premium incentive payments and premium assistance payments and tax credits has reached 95% of
6 the amount of money allocated for premium incentive payments and premium assistance payments and tax
7 credits.

8 (b) The commissioner may establish a waiting list for applicants that are otherwise qualified for
9 registration but cannot be registered because of a lack of money or because the maximum number of eligible
10 small employers has been reached.

11 (c) The commissioner shall mail to each employer registered under this section a notice of registration
12 containing a unique registration number and indicating eligibility for either premium incentive payments and
13 premium assistance payments or a tax credit. The commissioner shall also issue to each employer that is eligible
14 for premium incentive payments and premium assistance payments or the tax credit a certificate, placard, sticker,
15 or other evidence of participation that may be publicly posted.

16 (d) The commissioner shall notify all persons who applied for registration and who were not accepted
17 that they were not registered and the reason that they were not registered.

18 (4) A prospective participant shall apply for registration on a form provided by the commissioner. The
19 prospective participant shall:

20 (a) provide the number of employees and whether the employer qualifies under 33-22-2006;

21 (b) provide information that is necessary to estimate the amount of the premium incentive payments and
22 premium assistance payments payable to the applicant or the amount of the tax credit available to the applicant,
23 such as the ages of employees or dependents, relationships of employees' dependents, and information required
24 by the department of public health and human services for determination of eligibility for premium assistance
25 payments matched by federal funds;

26 (c) indicate whether the prospective employer intends to pursue the claim as a tax credit ~~through the~~
27 ~~income tax process~~ against taxes imposed by Title 15, chapter 31, or through premium incentive payments and
28 premium assistance payments to be applied toward purchasing pool or eligible qualified association health plan
29 coverage;

30 (d) indicate whether or not the employer previously sponsored a group health plan that provided

1 creditable coverage and, if so, when and for how long; and

2 (e) provide any additional information determined by the commissioner to be necessary to support an
3 application.

4 (5) Each year, small employer participants shall timely reregister with the commissioner in order to
5 determine the participant's continued eligibility. The commissioner shall accept applications for continued
6 registration:

7 (a) for purchasing pool participants at any time within 12 months of the initial registration approval or
8 within the time period for renewal of the coverage under this part, whichever is longer;

9 (b) for tax credit participants on December 1 of each year. The commissioner shall stop accepting
10 renewal applications for tax credit participants 60 calendar days later.

11 (6) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible small
12 employers that are ~~taxpayers corporations as defined in 15-31-101~~ that are entitled to the tax credit against taxes
13 imposed by Title 15, chapter 31, and shall specify the taxpayer's name and tax identification number, the tax year
14 to which the credit applies, the amount of the credit, and whether the credit is to be applied against taxes due on
15 the taxpayer's return or paid as premium incentive payments or premium assistance payments. Unless there has
16 been a finding of fraud or misrepresentation on the part of the taxpayer regarding issues relating to eligibility for
17 the tax credit, the department of revenue may not redetermine or change the commissioner's determination
18 regarding the taxpayer's entitlement to and amount of the tax credit.

19 (7) If the department of public health and human services receives approval for a section 1115 waiver
20 as provided in 53-2-216, the commissioner shall work with the department of public health and human services
21 with regard to eligibility determinations as required by federal law or waiver conditions."

22

23 **Section 78.** Section 33-27-101, MCA, is amended to read:

24 "**33-27-101. Short title.** Sections 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter may
25 be cited as the "Independent Liability Fund Act"."

26

27 **Section 79.** Section 33-27-102, MCA, is amended to read:

28 "**33-27-102. Purpose.** The purpose of 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter
29 is to create a means by which small businesses operating in Montana may establish independent liability funds
30 to set aside assets or make investments to meet any liability claims that might be made against the small

1 businesses by third parties."
2

3 **Section 80.** Section 33-27-103, MCA, is amended to read:

4 **"33-27-103. Definitions.** As used in 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter,
5 the following definitions apply:

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

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

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

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

16 (5) "Third party" means a person other than an employee or the management of a small business or of
17 a subsidiary or closely related enterprise of a small business."
18

19 **Section 81.** Section 37-4-104, MCA, is amended to read:

20 **"37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by
21 personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased or
22 a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to
23 practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal
24 representative of a disabled dentist may contract with a dentist to manage the dental practice at an establishment
25 where dental operations, oral surgery, or dental services are provided.

26 (2) A personal representative may not:

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

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

- 1 (c) allow any person other than a dentist to supervise and control the selection, compensation, terms,
2 conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice;
3 (d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by a dentist
4 or the dentist's practice; or
5 (e) limit or define the scope of services offered by the dentist.

6 (3) For the purposes of this section:

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

10 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in~~
11 ~~45-30-2110~~ means unable to engage in any substantial gainful activity by reason of any medically determined
12 physical or mental impairment lasting or expected to last at least 12 months; and

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

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

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

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

20

21 **Section 82.** Section 47-1-111, MCA, is amended to read:

22 **"47-1-111. Eligibility -- determination of indigence -- rules.** (1) (a) When a court orders the office to
23 assign counsel, the office shall immediately assign counsel prior to a determination under this section.

24 (b) If the person for whom counsel has been assigned is later determined pursuant to this section to be
25 ineligible for public defender services, the office shall immediately notify the court so that the court's order may
26 be rescinded.

27 (c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until
28 the court's order requiring the assignment is rescinded.

29 (d) Any determination pursuant to this section is subject to the review and approval of the court. The
30 propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an

1 assignment.

2 (2) (a) An applicant who is eligible for a public defender because the applicant is indigent shall also
3 provide a detailed financial statement and sign an affidavit. The court shall advise the defendant that the
4 defendant is subject to criminal charges for any false statement made on the financial statement.

5 (b) The application, financial statement, and affidavit must be on a form prescribed by the commission.
6 The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be
7 prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

8 (c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or
9 criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant
10 for perjury or false swearing.

11 (d) The office may not withhold the timely provision of public defender services for delay or failure to fill
12 out an application. However, a court may find a person in civil contempt of court for a person's unreasonable
13 delay or failure to comply with the provisions of this subsection (2).

14 (3) An applicant is indigent if:

15 (a) the applicant's gross household income, ~~as defined in 15-30-2337~~, is at or less than 133% of the
16 poverty level set according to the most current federal poverty guidelines updated periodically in the Federal
17 Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2);
18 or

19 (b) the disposable income and assets of the applicant and the members of the applicant's household are
20 insufficient to retain competent private counsel without substantial hardship to the applicant or the members of
21 the applicant's household.

22 (4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or
23 solely because the applicant is employed.

24 (5) A determination may be modified by the office or the court if additional information becomes available
25 or if the applicant's financial circumstances change.

26 (6) The commission shall establish procedures and adopt rules to implement this section. Commission
27 procedures and rules:

28 (a) must ensure that the eligibility determination process is fair and consistent statewide;

29 (b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from
30 the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the

1 members of the applicant's household;

2 (c) may provide for the use of other public or private agencies or contractors to conduct eligibility
3 screening under this section;

4 (d) must avoid unnecessary duplication of processes; and

5 (e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

6 (7) For purposes of this section, "gross household income" means all income received by all individuals
7 of a household while they are members of the household."

8

9 **Section 83.** Section 50-51-114, MCA, is amended to read:

10 **"50-51-114. Temporary emergency lodging program -- definitions.** (1) There is a voluntary temporary
11 emergency lodging program for licensed establishments located in Montana to assist designated charitable
12 organizations in providing short-term lodging in Montana to individuals and families displaced from their
13 residences.

14 (2) Except as provided in subsection (8), participating establishments may receive a tax credit as
15 provided in ~~45-30-2384~~ and 15-31-171 for providing temporary lodging to an individual who is:

16 (a) displaced from the individual's residence because of temporary immediate danger to the individual
17 posed by an assault, as described in 45-5-206, or potential assault by a partner or family member, as defined in
18 45-5-206; and

19 (b) referred to the establishment by a designated charitable organization.

20 (3) Except as provided in subsection (8), establishments participating in the temporary emergency
21 lodging program are eligible for a tax credit as provided in ~~45-30-2384~~ and 15-31-171 for up to 5 nights of lodging
22 for each individual per calendar year.

23 (4) Temporary emergency lodging provided under this section must be provided at no cost to the
24 individual or the referring organization.

25 (5) Participating establishments may offer lodging based on availability of rooms.

26 (6) The department shall maintain a registry of designated charitable organizations and shall provide a
27 list of approved organizations to establishments upon request. The department shall seek comment from
28 statewide nonprofit organizations that work with victims of disaster and domestic violence when developing and
29 updating the registry.

30 (7) For the purposes of 50-51-115 and this section, "designated charitable organization" means an

1 organization approved by the department to make referrals for temporary emergency lodging.

2 (8) The tax credit referred to in subsections (2) and (3) does not apply to the costs of providing lodging
3 to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or 5191 and
4 who receives financial assistance for temporary housing under 42 U.S.C. 5174."

5

6 **Section 84.** Section 53-2-211, MCA, is amended to read:

7 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the
8 unemployment compensation program of the department of labor and industry all information contained in its files
9 and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as
10 defined in 53-2-902, and food stamps. The information made available must include information on the amount
11 and source of an applicant's income. The information received from the department must be used by the
12 department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the
13 unemployment compensation program of the state and for no other purpose.

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

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

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

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

1 energy assistance, weatherization, or other public assistance."

2

3 **Section 85.** Section 53-4-1103, MCA, is amended to read:

4 **"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

5 (1) "Comprehensive" means health insurance having benefits at least as extensive as those provided
6 under the children's health insurance program.

7 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

8 (3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including
9 children already enrolled in the programs described in 53-4-1104(2).

10 (4) (a) "Enrollment partner" means an organization or individual approved by the department to assist
11 in enrolling eligible children in the plan.

12 (b) An enrollment partner may be but is not limited to:

13 (i) a licensed health care provider;

14 (ii) a school;

15 (iii) a community-based organization; or

16 (iv) a government agency.

17 (5) "Health coverage" means a program administered by the department or a disability insurance plan,
18 referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

19 (6) ~~(a) "Income" has the meaning provided in 15-30-2337(9)(a)~~ (a) means, except as provided in subsection
20 (6)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue
21 Code, plus all nontaxable income, including but not limited to:

22 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
23 disability benefits;

24 (ii) the amount of capital gains excluded from federal adjusted gross income;

25 (iii) alimony;

26 (iv) support money;

27 (v) nontaxable strike benefits;

28 (vi) cash public assistance and relief;

29 (vii) interest on federal, state, county, and municipal bonds; and

30 (viii) all payments received under federal social security except social security income paid directly to a

1 nursing home.

2 (b) For the purposes of this subsection (6), income is reduced by the individual's basis.

3 (7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

4 (8) "Premium" means the amount of money charged to provide coverage under a public or private health
5 coverage plan.

6 (9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."
7

8 **Section 86.** Section 67-11-303, MCA, is amended to read:

9 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
10 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms that
11 it may determine, payable out of any revenue of the authority, including revenue derived from:

12 (a) an airport or air navigation facility or facilities;

13 (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;

14 (c) grants or contributions from the federal government; or

15 (d) other sources.

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

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

27 (4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared
28 to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of~~
29 ~~15-30-2110(2)(a).~~

30 (5) For the security of bonds, the authority or municipality may by resolution make and enter into any

1 covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a
2 municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and
3 interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this
4 chapter, prior to the payment of current costs of operation and maintenance of the facilities.

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

28

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

30 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing

1 resident hunting, fishing, and trapping licenses, the following provisions apply:

2 (1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined
3 in ~~45-30-2115~~ subsection (11), who resides in the member's Montana household, or a member of the armed
4 forces of a foreign government attached to the regular armed forces of the United States is considered a resident
5 for the purposes of this chapter if:

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

8 (ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana
9 for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course
10 approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a
11 hunter safety course in any state or province. The 30-day residence requirement is waived in time of war.
12 Reassignment to another state, United States territory, or country terminates Montana residency for purposes
13 of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and
14 dependents continue to physically reside in Montana and the member continues to meet the residency criteria
15 of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a
16 "home of record" or "home of residence" in that member's armed forces records does not determine the member's
17 residency for purposes of this section.

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

22 (2) A person who has physically resided in Montana as the person's principal or primary home or place
23 of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making
24 application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this
25 section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary
26 home or place of abode.

27 (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of
28 this section by physically residing in Montana as the person's principal or primary home or place of abode for not
29 less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident
30 hunting, fishing, or trapping license.

- 1 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to
2 be considered a resident for purposes of this section:
- 3 (a) the person's principal or primary home or place of abode is in Montana;
- 4 (b) the person files Montana state income tax returns as a resident if required to file;
- 5 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and
6 operates in Montana;
- 7 (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident
8 hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or
9 trapping privileges in another state or country; and
- 10 (e) if the person registers to vote, the person registers only in Montana.
- 11 (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who
12 would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)
13 or (3) is considered a resident for purposes of this section.
- 14 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within
15 Montana, considered a resident for the purpose of making application for a fishing license as long as the person
16 remains an enrollee in a Montana camp.
- 17 (7) A person who does not reside in Montana but who meets all of the following requirements is a
18 resident for purposes of obtaining hunting and fishing licenses:
- 19 (a) The person's principal employment is within this state and the income from this employment is the
20 principal source of the applicant's family income.
- 21 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
22 amount.
- 23 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
24 months immediately preceding each application.
- 25 (d) The person's state of residency has laws substantially similar to this subsection (7).
- 26 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
27 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
28 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
29 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
30 required to show proof of the parental, guardianship, or custodial relationship to the minor.

- 1 (9) A person is not considered a resident for the purposes of this section if the person:
2 (a) claims residence in any other state or country for any purpose; or
3 (b) is an absentee property owner paying property tax on property in Montana.
- 4 (10) A license agent is not considered a representative of the state for the purpose of determining a
5 license applicant's residence status.
- 6 (11) (a) The term "dependent" means any of the following individuals over half of whose support was
7 received from the member:
- 8 (i) a son or daughter of the member or a descendant of either;
9 (ii) a stepson or stepdaughter of the member;
10 (iii) a brother, sister, stepbrother, or stepsister of the member;
11 (iv) the father or mother of the member or an ancestor of either;
12 (v) a stepfather or stepmother of the member;
13 (vi) a son or daughter of a brother or sister of the member;
14 (vii) a brother or sister of the father or mother of the member;
15 (viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the
16 member;
- 17 (ix) an individual who has as the individual's principal place of abode the home of the member and is a
18 member of the member's household; or
- 19 (x) an individual who:
20 (A) is a descendant of a brother or sister of the father or mother of the member;
21 (B) for the calendar year under consideration, received institutional care required by reason of a physical
22 or mental disability; and
- 23 (C) before receiving the institutional care, was a member of the same household as the member.
- 24 (b) For purposes of this subsection (11):
25 (i) the terms "brother" and "sister" include a brother or sister by the half blood; and
26 (ii) in determining whether any of the relationships specified exist, a legally adopted child of an individual
27 must be treated as a child of the individual by blood."
- 28

29 **Section 88.** Section 87-2-105, MCA, is amended to read:

30 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to

1 87-2-805(4), a hunting license may not be issued to a person who is born after January 1, 1985, unless the
2 person authorized to issue the license determines proof of completion of:

- 3 (a) a Montana hunter safety and education course established in subsection (4) or (6);
4 (b) a hunter safety course in any other state or province; or
5 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate
6 as provided in 87-2-126.

7 (2) A hunting license may not be issued to a member of the regular armed forces of the United States
8 or to a member of the armed forces of a foreign government attached to the armed forces of the United States
9 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to
10 a member's dependents, as defined in ~~15-30-2115~~ 87-2-102, who reside in the member's Montana household;
11 unless the person authorized to issue the license determines proof of completion of a hunter safety course
12 approved by the department or a hunter safety course in any state or province.

13 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized
14 to issue the license receives an archery license issued for a prior hunting season or determines proof of
15 completion of a bowhunter education course from the national bowhunter education foundation or any other
16 bowhunter education program approved by the department. Neither the department nor the license agent is
17 required to provide records of past archery license purchases. As part of the department's bow and arrow
18 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

19 (4) The department shall provide for a hunter safety and education course that includes instruction in
20 the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one
21 of its objectives the promotion of hunter safety and education. The department may designate as an instructor
22 any person it finds to be competent to give instructions in hunter safety and education, including the handling of
23 firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from
24 Montana's hunter safety and education course to a person successfully completing the course.

25 (5) The department shall provide for a course of instruction from the national bowhunter education
26 foundation or any other bowhunter education program approved by the department and for that purpose may
27 cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling
28 of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give
29 bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a
30 certificate of completion to any person successfully completing the course.

1 (6) The department may develop an adult hunter safety and education course.

2 (7) The department may adopt rules regarding how a person authorized to issue a license determines
3 proof of completion of a required course."

4

5 **NEW SECTION. Section 89. Repealer.** The following sections of the Montana Code Annotated are
6 repealed:

- 7 15-30-2110. Adjusted gross income.
- 8 15-30-2111. Nonresident and temporary resident taxpayers -- adjusted gross income.
- 9 15-30-2114. Exemptions -- inflation adjustment.
- 10 15-30-2115. General definition of dependent.
- 11 15-30-2116. Additional exemption for dependent child with disability -- physician's verification.
- 12 15-30-2117. Military salary, veterans' bonus, or death benefit -- exemptions.
- 13 15-30-2119. Net operating loss -- computation.
- 14 15-30-2131. Deductions allowed in computing net income.
- 15 15-30-2132. Standard deduction.
- 16 15-30-2133. Nondeductible items in computing net income.
- 17 15-30-2141. Independent liability fund -- deductibility.
- 18 15-30-2142. Income tax deduction for contribution to veterans' programs.
- 19 15-30-2143. Deduction for contributions to child abuse and neglect prevention program.
- 20 15-30-2144. Deposit of child abuse and neglect prevention program deductible contributions.
- 21 15-30-2152. Computation of income of estates or trusts -- exemption.
- 22 15-30-2301. Capital gains credit.
- 23 15-30-2319. Credit for energy-conserving investments.
- 24 15-30-2336. Refundable income tax credit -- statewide equalization property tax levies on principal residence
25 -- rules.
- 26 15-30-2337. Residential property tax credit for elderly -- definitions.
- 27 15-30-2338. Residential property tax credit for elderly -- eligibility -- disallowance or adjustment.
- 28 15-30-2339. Residential property tax credit for elderly -- filing date.
- 29 15-30-2340. Residential property tax credit for elderly -- computation of relief.
- 30 15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.

- 1 15-30-2342. Credit for preservation of historic buildings.
- 2 15-30-2356. Empowerment zone new employees -- tax credit.
- 3 15-30-2358. Qualified research tax credit.
- 4 15-30-2364. Adoption tax credit -- limitations.
- 5 15-30-2366. Credit for expense of caring for certain elderly family members.
- 6 15-30-2367. Tax credit for providing disability insurance for employees.
- 7 15-30-2368. Tax credit for health insurance premiums paid -- eligible small employers -- pass-through entities.
- 8 15-30-2373. Credit for dependent care assistance and referral services.
- 9 15-30-2381. Tax credit for providing temporary emergency lodging.
- 10 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 11 15-32-109. Credit for energy-conserving expenditures.
- 12 15-32-201. Amount of credit -- to whom available.
- 13 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 14 15-32-203. Department to make rules.
- 15 15-50-101. Definitions.
- 16 15-50-205. Tax imposed on gross receipts from public contracts.
- 17 15-50-206. Withholding license fee from payments -- refunds.
- 18 15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.
- 19 15-50-301. Rules for contractor's return.
- 20 15-50-304. Statute of limitations.
- 21 15-50-307. Inspection of books of contractor.
- 22 15-50-308. Estimation of tax upon failure to file statement or pay tax -- penalty and interest -- notice.
- 23 15-50-309. Penalty and interest for delinquency -- waiver.
- 24 15-50-310. Warrant for distraint.
- 25 15-50-311. Disposal of license taxes.
- 26 15-62-207. Deductions for contributions.
- 27 80-12-211. Income tax deduction for land sale to beginning farmers.

28
29 **NEW SECTION. Section 90. Transition -- carryover of credits.** A credit allowed a taxpayer prior to
30 January 1, 2014, under the provisions of 7-21-3710, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364,

1 15-30-2373, 15-31-131, 15-31-150, 15-31-151, 15-31-907, 15-32-115, 15-32-201, 15-32-202, 15-32-402,
2 15-32-404, 15-32-503, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-701, 15-32-702, 15-32-703,
3 15-50-207, 17-6-316 that may be carried forward for a specified number of years is not impaired by [this act], and
4 the taxpayer may claim the credit for the taxes specified for the period established in the section at the time the
5 credit was first allowed.

6

7 **NEW SECTION. Section 91. Transition.** (1) As used in this section, the following definitions apply:

8 (a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's
9 Montana taxable income related to transition items provided in subsection (3).

10 (b) "Transition item" means any difference arising prior to January 1, 2014, from a difference in federal
11 and Montana income tax laws in:

12 (i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;

13 (ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense;

14 or

15 (iii) the basis of an asset or liability that will not, after December 31, 2013, increase or decrease a
16 taxpayer's federal taxable income.

17 (2) No adjustment to Montana taxable income may be made to take transition items into account except
18 that a taxpayer may elect to make a transition adjustment to Montana taxable income to take a transition item into
19 account as provided in this section.

20 (3) On or before the due date, including extensions, of a return for the tax year ending after December
21 31, 2013, and before January 1, 2015, a taxpayer may on forms that the department prescribes file an election
22 to make a transition adjustment to Montana taxable income. The election must specify and account for all
23 transition items, including but not limited to the following:

24 (a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the Internal
25 Revenue Code (26 U.S.C. 469) that is carried over to a tax year ending after December 31, 2013, and before
26 January 1, 2015, and if the amount of the federal carryover is not the same amount as the Montana carryover,
27 the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is
28 smaller than the federal carryover and the difference is a negative adjustment to the taxpayer's Montana taxable
29 income if the Montana carryover is larger than the federal carryover.

30 (b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of

1 the Internal Revenue Code (26 U.S.C. 1212(b)(1)) that is carried over to a tax year ending after December 31,
2 2013, and before January 1, 2015, and if the amount of the federal carryover is not the same amount as the
3 Montana carryover, the difference is a positive adjustment to the taxpayer's Montana taxable income if the
4 Montana carryover is smaller than the federal carryover and the difference is a negative adjustment to the
5 taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

6 (c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal
7 return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA
8 pursuant to section 408A(d)(3) of the Internal Revenue Code (26 U.S.C. 408A(d)(3)) but included all the income
9 in the taxpayer's Montana income tax return, the sum of the balance of the federal deferred amount as of January
10 1, 2014, is a negative adjustment to the taxpayer's Montana taxable income.

11 (d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers and
12 net operating loss carrybacks under section 172(a) of the Internal Revenue Code (26 U.S.C. 172(a)) in a tax year
13 ending after December 31, 2013, and before January 1, 2015, if the taxpayer's federal net operating loss is
14 different from the taxpayer's Montana net operating loss as of December 31, 2013, no adjustment to the
15 taxpayer's Montana taxable income may be made.

16 (e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax
17 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c),
18 the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis
19 is higher than the federal adjusted basis and the difference is a negative adjustment to the taxpayer's Montana
20 taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

21 (f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax
22 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c),
23 the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis
24 is higher than the federal adjusted basis and the difference is a positive adjustment to the taxpayer's Montana
25 taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

26 (g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year beginning
27 after December 31, 2012, resulted in a reduction of Montana income tax liability, the refund is, to the extent the
28 deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the taxpayer's Montana
29 taxable income.

30 (4) The department is authorized to adopt rules and require facts and information to be reported that it

1 considers necessary to administer the transition adjustment provided in this section.

2

3 NEW SECTION. **Section 92. Notification to tribal governments.** The secretary of state shall send
4 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
5 Chippewa tribe.

6

7 NEW SECTION. **Section 93. Codification instruction.** (1) [Section 1] is intended to be codified as an
8 integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [section 1].

9 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, part 21, and the
10 provisions of Title 15, chapter 30, part 21, apply to [section 2].

11

12 NEW SECTION. **Section 94. Severability.** If a part of [this act] is invalid, all valid parts that are
13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
14 the part remains in effect in all valid applications that are severable from the invalid applications.

15

16 NEW SECTION. **Section 95. Effective date.** [This act] is effective January 1, 2014.

17

18 NEW SECTION. **Section 96. Applicability.** [This act] applies to tax years beginning after December
19 31, 2013.

20

- END -