

HOUSE BILL NO. 308

INTRODUCED BY C. SCHREINER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INCOME TAX CREDIT PROGRAM FOR
5 EMPLOYERS OF REGISTERED APPRENTICES, INCLUDING AN INCREASED CREDIT FOR EMPLOYING
6 VETERANS; PROVIDING THAT THE CREDITS BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND
7 CORPORATE INCOME TAX LIABILITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS
8 15-30-2618 AND 15-31-511, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY
9 DATE."

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

12
13 NEW SECTION. **Section 1. Employer apprenticeship tax credit -- increased credit for employing**
14 **veteran apprentice.** (1) An employer that employs an apprentice or a veteran apprentice who works in Montana
15 pursuant to a state-registered apprenticeship training program is eligible for an annual credit against income taxes
16 imposed pursuant to Title 15, chapter 30 or 31.

17 (2) The amount of the credit is limited to:

18 (a) \$1,000 for each apprentice employed; and

19 (b) \$2,000 for each apprentice employed who is a veteran.

20 (3) A tax credit is not available to the employer until after the apprentice has completed the apprentice
21 training program's probationary period or 6 months, whichever is earlier.

22 (4) An employer shall apply each year to the department to receive approval to claim the credit for the
23 preceding calendar year. The credit may not be claimed for more than 5 tax years for each individual apprentice.
24 The department shall provide a successful applicant with the form provided for in [section 2(6)].

25 (5) The aggregate amount of apprenticeship tax credits allowed is \$1 million in a year. The department
26 shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its
27 website advising taxpayers when the aggregate limit has been reached. Prior to approving a tax credit, the
28 department shall verify that the employee for which the credit is sought is employed in a state-registered
29 apprenticeship program and whether the employee is a veteran.

30 (6) By December 31 each year, the department shall provide to the department of revenue a list of the

1 employers approved for the tax credit, the apprentices employed by the employer, and the aggregate total of tax
2 credits allowed. The list must include the federal tax identification number of the employer and the name and
3 social security number or federal tax identification number of the registered apprentice.

4 (7) The identity and social security number or federal tax identification number of the apprentices
5 employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

6 (8) The department may adopt rules necessary to administer this section.

7 (9) For the purposes of this section, "veteran" has the meaning provided in 39-29-101.

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9 **NEW SECTION. Section 2. Tax credit for hiring registered apprentice or veteran apprentice.** (1)

10 Subject to the provisions of [section 1], a taxpayer is allowed a credit against the tax imposed by chapter 31 or
11 this chapter for employing a registered apprentice or registered veteran apprentice who works in Montana.

12 (2) The credit may not exceed the taxpayer's tax liability and may not be carried forward or carried back.

13 (3) The credit may be claimed only in the tax year in which the department of labor and industry
14 approved the credit as provided in [section 1(4)]. If a taxpayer claims the credit but was not approved by the
15 department of labor and industry, the taxpayer's return will be processed without regard to the credit.

16 (4) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the
17 calendar year that ends within the taxpayer's fiscal period.

18 (5) Subject to the probationary period provided for in [section 1], if an employer employs an apprentice
19 for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the
20 apprentice was employed.

21 (6) The department shall, after consultation with the department of labor and industry, prescribe a form
22 for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the
23 proper administration of the credit.

24 (7) The department shall provide the department of labor and industry an annual report detailing the tax
25 credit provided to employers for the previous year. The information provided to the department of labor and
26 industry is subject to the provisions of 15-30-2618 and 15-31-511.

27 (8) The department may adopt rules, prepare forms, and maintain records that are necessary to
28 implement this credit.

29

30 **NEW SECTION. Section 3. Tax credit for hiring registered apprentices or veteran apprentices.**

1 (1) There is a tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the
2 amount established pursuant to [section 1] when a taxpayer employs a registered apprentice or registered
3 veteran apprentice who works in Montana. The credit is administered as provided in [section 1], [section 2], and
4 this section.

5 (2) If the credit allowed under this section is claimed by a small business corporation as defined in
6 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or
7 partners using the same proportion as used to report the entity's income or loss.

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9 **Section 4.** Section 15-30-2618, MCA, is amended to read:

10 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
11 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided
12 by law, it is unlawful to divulge or make known in any manner:

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

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

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

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

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

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

25 (3) This section does not prohibit:

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

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

30 (c) the inspection by the attorney general or other legal representative of the state of the report or return

1 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
2 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

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

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

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

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

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

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

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

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

29 (a) to the department of justice all information necessary to identify those persons qualifying for the
30 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of

1 justice to administer the provisions of 61-5-105;

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

5 (c) to the department of labor and industry;

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

10 (ii) for the purpose of administering the apprenticeship tax credit provided for in [section 1], employer and
11 apprentice information necessary to implement [section 1], [section 2], and [section 3];

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

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

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

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

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

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

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

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2 **Section 5.** Section 15-31-511, MCA, is amended to read:

3 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with

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

5 (a) the amount of income or any particulars set forth or disclosed in any return or report required under

6 this chapter or any other information relating to taxation secured in the administration of this chapter; or

7 (b) any federal return or information in or disclosed on a federal return or report required by law or rule

8 of the department under this chapter.

9 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may

10 not be ordered to produce any of them or evidence of anything contained in them in any administrative

11 proceeding or action or proceeding in any court, except:

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

13 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of

14 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

15 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit

16 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the

17 action or proceeding.

18 (3) This section does not prohibit:

19 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer

20 who filed the return or report or to the taxpayer's authorized representative;

21 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,

22 reports, or items from returns or reports;

23 (c) the inspection of returns and reports by the attorney general or other legal representative of the state

24 in the course of an administrative proceeding or litigation under this chapter;

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

26 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of

27 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer

28 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of

29 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an

30 investigation of the income or return of a corporation. The director of revenue may not furnish that information

1 to a person representing the United States or another state unless the United States or the other state grants
2 substantially similar privileges to an officer of this state charged with the administration of this chapter.

3 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the
4 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

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

6 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
7 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
8 (1);

9 (b) provide corporate income tax and alternative corporate income tax information, including any
10 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
11 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.
12 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject
13 to the same restrictions on disclosure outside those offices as provided in subsection (1).

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

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

19 (e) exchange with the department of labor and industry taxpayer and apprentice information necessary
20 to implement [section 1], [section 2], and [section 3].

21 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
22 public employee is convicted of violating this section, the person is dismissed from office or employment and may
23 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
24 of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,
25 2023--sec. 33, Ch. 457, L. 2015.)"

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27 **NEW SECTION. Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an
28 integral part of Title 39, chapter 6, and the provisions of Title 39, chapter 6, apply to [section 1].

29 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of
30 Title 15, chapter 30, apply to [section 2].

1 (3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of
2 Title 15, chapter 31, apply to [section 3].

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4 NEW SECTION. **Section 7. Effective date.** [This act] is effective January 1, 2018.

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6 NEW SECTION. **Section 8. Applicability.** [This act] applies to tax years beginning after December 31,
7 2017.

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