

HOUSE BILL NO. 308

INTRODUCED BY C. SCHREINER

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

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

NEW SECTION. Section 1. Employer apprenticeship tax credit -- increased credit for employing veteran apprentice. (1) An employer that employs an apprentice or a veteran apprentice who works in Montana pursuant to a ~~IN A NEW OR EXPANDED AS A NEW EMPLOYEE IN A~~ state-registered apprenticeship training program is eligible for an annual credit against income taxes imposed pursuant to Title 15, chapter 30 or 31. ~~A NEW OR EXPANDED APPRENTICESHIP PROGRAM IS AN APPRENTICESHIP PROGRAM OR A SLOT IN AN APPRENTICESHIP PROGRAM THAT DID NOT EXIST BEFORE [THE EFFECTIVE DATE OF THIS ACT].~~

- (2) The amount of the credit is limited to:
 - (a) ~~FOR TAX YEARS 2018 AND 2019, \$1,000 FOR EACH APPRENTICE EMPLOYED WHO IS A VETERAN;~~
 - ~~(b) FOR TAX YEAR 2020 AND AFTER:~~
 - ~~(b)(i) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), \$1,000~~ **\$750** for each apprentice employed; and
 - ~~(b)(ii)(B) \$2,000~~ **\$1,500** for each apprentice employed who is a veteran.

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

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

(5) ~~The aggregate amount of apprenticeship tax credits allowed is \$1 million in a year. The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its~~



1 ~~website advising taxpayers when the aggregate limit has been reached.~~ Prior to approving a tax credit, the
 2 department shall verify that the employee for which the credit is sought is employed in a state-registered
 3 apprenticeship program, ~~THAT THE PROGRAM IS A NEW OR EXPANDED EMPLOYEE IS A NEW EMPLOYEE IN AN~~
 4 APPRENTICESHIP PROGRAM, and whether the employee is a veteran.

5 (6) By December 31 each year, the department shall provide to the department of revenue a list of the
 6 employers approved for the tax credit, the apprentices employed by the employer, and the aggregate total of tax
 7 credits allowed. The list must include the federal tax identification number of the employer and the name and
 8 social security number or federal tax identification number of the registered apprentice.

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

11 (8) THE DEPARTMENT SHALL PROVIDE TO EACH HIGH SCHOOL IN THE STATE INFORMATION ABOUT
 12 APPRENTICESHIP PROGRAMS, INCLUDING BUT NOT LIMITED TO OCCUPATIONS FOR WHICH APPRENTICESHIPS ARE
 13 AVAILABLE, STUDENT APPLICATION REQUIREMENTS, AND PROGRAM REQUIREMENTS.

14 ~~(8)~~(9) The department may adopt rules necessary to administer this section.

15 ~~(9)~~(10) For the purposes of this section, THE FOLLOWING DEFINITIONS APPLY:

16 (A) "NEW EMPLOYEE" MEANS AN INDIVIDUAL WHO WAS NOT EMPLOYED AS AN APPRENTICE OR VETERAN
 17 APPRENTICE BEFORE [THE EFFECTIVE DATE OF THIS ACT].

18 (B) "veteran" "VETERAN" has the meaning provided in 39-29-101.

19
 20 NEW SECTION. Section 2. Tax credit for hiring registered apprentice or veteran apprentice. (1)

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

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

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

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

29 (5) Subject to the probationary period provided for in [section 1], if an employer employs an apprentice
 30 for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the

1 apprentice was employed.

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

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

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

10

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

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

16 (2) If the credit allowed under this section is claimed by a small business corporation as defined in
17 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or
18 partners using the same proportion as used to report the entity's income or loss.

19

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

21 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
22 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided
23 by law, it is unlawful to divulge or make known in any manner:

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

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

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

1 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or
2 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
3 when the reports or facts shown by the reports are directly involved in the action or proceedings.

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

6 (3) This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (g) to the department of transportation farm income information based on the most recent income tax

1 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been
 2 given as provided in 15-70-430. The information obtained by the department of transportation is subject to the
 3 same restrictions on disclosure as are individual income tax returns.

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

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

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

12

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

14 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with
 15 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

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

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

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

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

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

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

29 (3) This section does not prohibit:

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

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

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

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

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

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

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

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

17 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
18 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
19 (1);

20 (b) provide corporate income tax and alternative corporate income tax information, including any
21 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
22 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.
23 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject
24 to the same restrictions on disclosure outside those offices as provided in subsection (1).

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

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

30 (e) exchange with the department of labor and industry taxpayer and apprentice information necessary

1 to implement [section 1], [section 2], and [section 3].

2 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
3 public employee is convicted of violating this section, the person is dismissed from office or employment and may
4 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
5 of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,
6 2023--sec. 33, Ch. 457, L. 2015.)"

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

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

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

14

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

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17 **NEW SECTION. Section 8. Applicability.** [This act] applies to tax years beginning after December 31,
18 2017.

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- END -