

HOUSE BILL NO. 697

INTRODUCED BY J. HAMILTON

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INDIVIDUAL INCOME TAX; REDUCING
5 INDIVIDUAL INCOME TAX RATES; INCREASING THE STANDARD DEDUCTION; ELIMINATING ITEMIZED
6 DEDUCTIONS, ADDITIONAL PERSONAL EXEMPTIONS, CERTAIN ADDITIONS AND SUBTRACTIONS TO
7 FEDERAL ADJUSTED GROSS INCOME, AND CERTAIN TAX CREDITS; AMENDING SECTIONS 7-14-1133,
8 7-14-1636, 7-21-3710, 7-34-2416, 15-30-2101, 15-30-2103, 15-30-2110, 15-30-2114, 15-30-2119, 15-30-2132,
9 15-30-2152, 15-30-2320, 15-30-2326, 15-30-2357, 15-30-2380, 15-30-2501, 15-30-2602, 15-30-2618,
10 15-30-3003, 15-30-3004, 15-30-3102, 15-30-3110, 15-31-131, 15-31-134, 15-31-137, 15-31-151, 15-31-171,
11 15-31-172, 15-31-511, 15-32-104, 15-32-105, 15-32-106, 15-32-115, 15-32-303, 15-32-402, 15-32-404,
12 15-32-502, 15-32-503, 15-32-504, 15-32-505, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-602,
13 15-32-603, 15-32-610, 15-32-701, 15-32-702, 15-32-703, 15-50-207, 15-61-202, 15-61-203, 15-62-208,
14 15-63-202, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 33-27-101, 33-27-102,
15 33-27-103, 37-4-104, 39-6-109, 50-51-114, 53-2-211, 53-25-118, AND 67-11-303, MCA; REPEALING
16 SECTIONS 2-18-1312, 15-30-2116, 15-30-2131, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144,
17 15-30-2301, 15-30-2319, 15-30-2334, 15-30-2335, 15-30-2342, 15-30-2356, 15-30-2358, 15-30-2364,
18 15-30-2365, 15-30-2366, 15-30-2367, 15-30-2373, 15-30-2381, 15-30-3103, 15-30-3104, 15-30-3105,
19 15-30-3106, 15-30-3111, 15-30-3112, 15-30-3113, 15-31-133, 15-31-159, 15-31-173, 15-32-109, 15-32-201,
20 15-32-202, 15-32-203, 15-62-207, 53-25-117, AND 80-12-211, MCA; AND PROVIDING A DELAYED
21 EFFECTIVE DATE AND AN APPLICABILITY DATE."

22

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

24

25 **Section 1.** 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 bonds for which revenue from the same source is
9 pledged exceeds the amount of revenue to be received in that year, as estimated in the resolution authorizing
10 the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and
11 collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from
12 the pledged source in such year at least equal to the amount of principal and interest due in that year.

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

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

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

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

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

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

14

15 **Section 2.** Section 7-14-1636, MCA, is amended to read:

16 **"7-14-1636. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
17 purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it determines,
18 payable out of any revenue of the authority, including revenue derived from:

19 (a) a railroad;

20 (b) taxes levied pursuant to 7-14-1632;

21 (c) grants or contributions from the federal government; or

22 (d) other sources.

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

30 (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.

1 Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from revenue
 2 of the authority and must state on their face the applicable limitations or restrictions regarding the source from
 3 which the principal and interest are payable.

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

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

12 **Section 3.** Section 7-21-3710, MCA, is amended to read:

13 **"7-21-3710. Tax credits for employers in empowerment zone.** (1) There is allowed to an employer
 14 a credit against taxes imposed under ~~45-30-2103~~, 15-31-121, 15-31-122, or 33-2-705 for an increase in net
 15 employees as provided in this section.

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

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

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

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

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

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

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

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

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

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

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

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

17 **Section 4.** Section 7-34-2416, MCA, is amended to read:

18 **"7-34-2416. Tax-exempt status of bonds.** Bonds issued by a county pursuant to the provisions of
 19 7-34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental
 20 purpose by a political subdivision within the meaning of 15-30-2110(2)(a)."
 21

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

23 **"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the
 24 following definitions apply:

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

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

28 (b) the exemptions contained in 15-30-2114, but unadjusted by ~~15-30-2114(6)~~ 15-30-2114(4), in effect
 29 on June 30 of the taxable year;

30 (c) the ~~maximum~~ standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect

1 on June 30 of the taxable year.

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

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

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

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

9 (c) that is not a disregarded entity.

10 (4) "Department" means the department of revenue.

11 (5) "Disregarded entity" means a business entity:

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

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

17 (6) "Dividend" means:

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

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

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

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

25 (9) "Foreign government" means any jurisdiction other than the one embraced within the United States,
26 its territories, and its possessions.

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

1 (11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index
2 for June of the previous tax year by the consumer price index for June 2015.

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

9 (13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be
10 labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
11 provisions as they may be otherwise labeled or further amended.

12 (14) "Knowingly" is as defined in 45-2-101.

13 (15) "Limited liability company" means a limited liability company, domestic limited liability company, or
14 a foreign limited liability company as defined in 35-8-102.

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

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

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

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

19 (18) (a) "Montana source income" means:

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

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

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

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

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

30 (vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state

1 or while a resident of the state;

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

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

6 (ix) net royalties from real property and from tangible real property to the extent the property is used in
7 the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state
8 is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical
9 location of the property in the state during the royalty period in the tax year and the denominator of which is the
10 number of days of physical location of the property everywhere during all royalty periods in the tax year. If the
11 physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in
12 which it was located at the time the person paying the royalty obtained possession.

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

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

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

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

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

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

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

30 (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits

1 received while a resident of the state;

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

4 (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership
5 doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,
6 multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment
7 factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the nonresident
8 taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may
9 require with respect to any and all of the partnership interest, the employment of another method to effectuate
10 an equitable allocation or apportionment of the nonresident's income. This subsection (18)(a)(xvii) is intended
11 to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are
12 afforded the same rights under 15-1-601 and 15-31-312.

13 (b) The term does not include:

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

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

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

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

25 (21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued
26 or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the
27 method of accounting upon the basis of which the taxable income is computed under this chapter.

28 (22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated
29 as a partner for federal income tax purposes.

30 (23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability

1 company, or other entity, if treated as a partnership for federal income tax purposes.

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

3 (25) "Pension and annuity income" means:

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

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

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

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

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

17 (26) "Purposely" is as defined in 45-2-101.

18 (27) "Received", for the purpose of computation of taxable income under this chapter, means received
19 or accrued, and the term "received or accrued" must be construed according to the method of accounting upon
20 the basis of which the taxable income is computed under this chapter.

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

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

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

29 (31) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

30 (32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and

1 exemptions provided for in this chapter.

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

4

5 **Section 6.** Section 15-30-2103, MCA, is amended to read:

6 **"15-30-2103. Rate of tax.** (1) There must be levied, collected, and paid for each tax year upon the
7 taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as
8 provided in this chapter, a tax on the brackets of taxable income as follows:

9 (a) on the first ~~\$2,900~~ \$3,100 of taxable income or any part of that income, ~~4%~~ 0.8%;

10 (b) on the next ~~\$2,200~~ \$2,400 of taxable income or any part of that income, ~~2%~~ 1.6%;

11 (c) on the next ~~\$2,700~~ \$2,900 of taxable income or any part of that income, ~~3%~~ 2.4%;

12 (d) on the next ~~\$2,700~~ \$2,900 of taxable income or any part of that income, ~~4%~~ 3.2%;

13 (e) on the next ~~\$3,000~~ \$3,200 of taxable income or any part of that income, ~~5%~~ 4.0%;

14 (f) on the next ~~\$3,900~~ \$4,200 of taxable income or any part of that income, ~~6%~~ 4.8%;

15 (g) on the next \$231,300 of taxable income or any part of that income, 6.3%;

16 (h) on the next \$250,000 of taxable income or any part of that income, 6.7%;

17 ~~(g)~~(i) on any taxable income in excess of ~~\$17,400~~ \$500,000 or any part of that income, ~~6.9%~~ 7.2%.

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

22

23 **Section 7.** Section 15-30-2110, MCA, is amended to read:

24 **"15-30-2110. Adjusted gross income.** (1) ~~Subject to subsection (14)~~ Except as provided in subsection
25 (2), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal
26 Revenue Code, 26 U.S.C. 62, ~~and in addition includes the following:~~

27 ~~(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other~~
28 ~~political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana~~
29 ~~under federal law;~~

30 ~~———— (ii) exempt interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.~~

1 ~~852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);~~

2 ~~(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a~~
 3 ~~reduction of Montana income tax liability as determined under subsection (15);~~

4 ~~(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue~~
 5 ~~Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;~~

6 ~~(d) depreciation or amortization taken on a title plant as defined in 33-25-105;~~

7 ~~(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the~~
 8 ~~amount recovered reduced the taxpayer's Montana income tax in the year deducted;~~

9 ~~—— (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of~~
 10 ~~the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution~~
 11 ~~of the same estate or trust for the same tax period; and~~

12 ~~—— (g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any dividend~~
 13 ~~to the extent that the dividend is not included in federal adjusted gross income.~~

14 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not
 15 include the following, which are exempt from taxation under this chapter:

16 (a) ~~(i)~~ all interest income from obligations of the United States government, the state of Montana, or a
 17 county, municipality, district, or other political subdivision of the state; and

18 ~~(b)~~ any other interest income that is exempt from taxation by Montana under federal law; ~~;~~

19 ~~—— (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.~~
 20 ~~852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);~~

21 ~~(b)~~ interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
 22 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

23 ~~—— (c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (16), the first \$4,070 of all~~
 24 ~~pension and annuity income received as defined in 15-30-2101;~~

25 ~~—— (ii) subject to subsection (16), for pension and annuity income described under subsection (2)(c)(i), as~~
 26 ~~follows:~~

27 ~~—— (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total~~
 28 ~~amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in~~
 29 ~~excess of \$33,910 as shown on the taxpayer's return;~~

30 ~~—— (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity~~

- 1 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
2 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910
3 as shown on their joint return;
- 4 ~~——— (d) all Montana income tax refunds or tax refund credits;~~
- 5 ~~——— (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);~~
- 6 ~~——— (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
7 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
8 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
9 or lodging;~~
- 10 ~~——— (g) all benefits received under the workers' compensation laws;~~
- 11 ~~——— (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
12 employee under federal law;~~
- 13 ~~——— (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
14 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";~~
- 15 ~~——— (j) principal and income in a medical care savings account established in accordance with 15-61-201
16 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical care
17 savings account inherited by an immediate family member as provided in 15-61-202(6);~~
- 18 ~~——— (k) principal and income in a first-time home buyer savings account established in accordance with
19 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
20 of a single-family residence;~~
- 21 ~~——— (l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition
22 program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal
23 Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of
24 a designated beneficiary;~~
- 25 ~~——— (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the
26 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;~~
- 27 ~~——— (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
28 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
29 of the same estate or trust for the same tax period;~~
- 30 ~~——— (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch~~

1 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
 2 is not provided for federal income tax purposes;

3 ~~———— (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
 4 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
 5 taxpayer meet the filing requirements in 15-30-2602.~~

6 ~~———— (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
 7 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;~~

8 ~~———— (r) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in
 9 15-31-163;~~

10 ~~———— (s) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to
 11 15-30-3104; and~~

12 ~~———— (t) a payment received by a private landowner for providing public access to public land pursuant to Title
 13 76, chapter 17, part 1.~~

14 ~~———— (3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(i) shall
 15 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as
 16 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election
 17 is effective.~~

18 ~~———— (4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's
 19 business deductions:~~

20 ~~———— (i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
 21 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and
 22 salaries paid regardless of the credit taken; or~~

23 ~~———— (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the
 24 amount of the business expense paid when there is no corresponding state income tax credit or deduction,
 25 regardless of the credit taken.~~

26 ~~———— (b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business
 27 expenses were used to compute the credit. In the case of a partnership or small business corporation, the
 28 deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or
 29 small business corporation.~~

30 ~~(5)(3) Married taxpayers filing a joint federal return who are required to include part of their social security~~

1 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal
2 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement
3 benefits when they file separate Montana income tax returns. The federal base must be split equally on the
4 Montana return.

5 ~~(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section~~
6 ~~1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may~~
7 ~~claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital~~
8 ~~loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss~~
9 ~~must be split equally on each return.~~

10 ~~————(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and~~
11 ~~who file separate Montana income tax returns are not required to recompute allowable passive losses according~~
12 ~~to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal~~
13 ~~Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must~~
14 ~~be shown on that spouse's return; otherwise, the loss must be split equally on each return.~~

15 ~~————(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a~~
16 ~~deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.~~
17 ~~219, and who file separate Montana income tax returns may claim the same amount of the deduction that is~~
18 ~~allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.~~

19 ~~————(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a~~
20 ~~qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate~~
21 ~~Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return.~~
22 ~~The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted~~
23 ~~gross income.~~

24 ~~————(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and~~
25 ~~related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana~~
26 ~~income tax returns may claim the same amount of the deduction that is allowed on the federal return. The~~
27 ~~deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross~~
28 ~~income.~~

29 ~~————(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end~~
30 ~~of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income~~

1 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
2 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
3 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
4 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
5 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
6 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
7 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
8 or expected to last at least 12 months.

9 ~~———— (11) (a) An individual who contributes to one or more accounts established under the Montana family~~
10 ~~education savings program or to a qualified tuition program established and maintained by another state as~~
11 ~~provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted~~
12 ~~gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each~~
13 ~~spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses~~
14 ~~may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The~~
15 ~~reduction in adjusted gross income under this subsection applies only with respect to contributions to an account~~
16 ~~of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the~~
17 ~~taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect~~
18 ~~to withdrawals of contributions that reduced adjusted gross income.~~

19 ~~———— (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in~~
20 ~~45-62-208.~~

21 ~~———— (12) (a) An individual who contributes to one or more accounts established under the Montana achieving~~
22 ~~a better life experience program or to a qualified program established and maintained by another state as~~
23 ~~provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross~~
24 ~~income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse~~
25 ~~is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may~~
26 ~~jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The~~
27 ~~reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an~~
28 ~~account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild~~
29 ~~if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with~~
30 ~~respect to withdrawals of contributions that reduced adjusted gross income.~~

1 ~~—— (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in~~
2 ~~53-25-118.~~

3 ~~—— (13) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection~~
4 ~~(13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:~~

5 ~~—— (i) is a health care professional licensed in Montana as provided in Title 37;~~
6 ~~—— (ii) is serving a significant portion of a designated geographic area, special population, or facility~~
7 ~~population in a federally designated health professional shortage area, a medically underserved area or~~
8 ~~population, or a federal nursing shortage county as determined by the secretary of health and human services~~
9 ~~or by the governor;~~

10 ~~—— (iii) has had a student loan incurred as a result of health-related education; and~~
11 ~~—— (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment~~
12 ~~program described in subsection (13)(b) as an incentive to practice in Montana.~~

13 ~~—— (b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or~~
14 ~~qualified private program. A qualified private loan repayment program includes a licensed health care facility, as~~
15 ~~defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility~~
16 ~~as a licensed health care professional.~~

17 ~~—— (14) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of~~
18 ~~capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are~~
19 ~~determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.~~

20 ~~—— (15) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the~~
21 ~~following order as applicable:~~

22 ~~—— (a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax~~
23 ~~year;~~

24 ~~—— (b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year~~
25 ~~but did not result in a reduction in state income tax liability in that prior tax year; and~~

26 ~~—— (c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year~~
27 ~~and that reduced the taxpayer's state income tax liability in that prior tax year.~~

28 ~~—— (16) By November 1 of each year, the department shall multiply the amount of pension and annuity~~
29 ~~income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)~~
30 ~~by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective~~

1 for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c).
 2 (~~Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates~~
 3 ~~on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(s) terminates December 31, 2023--sec.~~
 4 ~~33, Ch. 457, L. 2015; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.~~)"

5

6 **Section 8.** Section 15-30-2114, MCA, is amended to read:

7 **"15-30-2114. Exemptions -- inflation adjustment.** (1) Subject to subsection (6) (4), an individual is
 8 allowed as deductions in computing taxable income the exemptions provided by subsections (2) through (5) and
 9 (3).

10 (2) (a) An exemption of \$2,380 is allowed for all taxpayers.

11 (b) ~~An additional exemption of \$2,380 is allowed for the spouse of the taxpayer if a separate return is~~
 12 ~~made by the taxpayer and if the spouse, for the calendar year in which the tax year of the taxpayer begins, does~~
 13 ~~not have gross income and is not the dependent of another taxpayer.~~

14 ~~----- (3) (a) An additional exemption of \$2,380 is allowed for the taxpayer if the taxpayer has attained the age~~
 15 ~~of 65 before the close of the taxpayer's tax year.~~

16 ~~----- (b) An additional exemption of \$2,380 is allowed for the spouse of the taxpayer if a separate return is~~
 17 ~~made by the taxpayer and if the spouse has attained the age of 65 before the close of the tax year and, for the~~
 18 ~~calendar year in which the tax year of the taxpayer begins, does not have gross income and is not the dependent~~
 19 ~~of another taxpayer.~~

20 ~~----- (4) (a) An additional exemption of \$2,380 is allowed for the taxpayer if the taxpayer is blind at the close~~
 21 ~~of the taxpayer's tax year.~~

22 ~~----- (b) An additional exemption of \$2,380 is allowed for the spouse of the taxpayer if a separate return is~~
 23 ~~made by the taxpayer and if the spouse is blind and, for the calendar year in which the tax year of the taxpayer~~
 24 ~~begins, does not have gross income and is not the dependent of another taxpayer. For the purposes of this~~
 25 ~~subsection (4)(b), the determination of whether the spouse is blind must be made as of the close of the tax year~~
 26 ~~of the taxpayer, except that if the spouse dies during the tax year, the determination must be made as of the time~~
 27 ~~of death.~~

28 ~~----- (c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does~~
 29 ~~not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is~~
 30 ~~accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends~~

1 ~~an angle no greater than 20 degrees.~~

2 ~~——(5)(3)~~ (a) An exemption of \$2,380 is allowed for each dependent:

3 (i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than
4 or equal to the exemption amount provided in subsection (2)(a); or

5 (ii) who is a qualifying child as defined in section 152 of the Internal Revenue Code, 26 U.S.C. 152,
6 including a student as defined in that section.

7 (b) An exemption is not allowed under this subsection for a dependent who has made a joint return with
8 the dependent's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer
9 begins.

10 ~~(6)(4)~~ By November 1 of each year, the department shall multiply all the exemptions provided in this
11 section by the inflation factor for the following tax year and round the product to the nearest \$10. The resulting
12 adjusted exemptions are effective for ~~that~~ the following tax year and must be used in calculating the tax imposed
13 in 15-30-2103."

14

15 **Section 9.** Section 15-30-2119, MCA, is amended to read:

16 **"15-30-2119. Net operating loss -- computation.** A Montana net operating loss must be determined
17 in accordance with section 172 of the Internal Revenue Code of 1986 (26 U.S.C. 172) or as that section may be
18 labeled or amended ~~except that the net operating loss determined under section 172(c) of the Internal Revenue~~
19 ~~Code (26 U.S.C. 172(c)) means taxable income, as defined in 15-30-2104, computed with the modifications~~
20 specified in section 172(d) of the Internal Revenue Code (26 U.S.C. 172(d)) as they relate to items provided for
21 in this chapter."

22

23 **Section 10.** Section 15-30-2132, MCA, is amended to read:

24 **"15-30-2132. Standard deduction.** (1) A standard deduction ~~equal to 20% of adjusted gross income~~
25 ~~of \$7,000 is allowed if elected by to the taxpayer on a return. The standard deduction is in lieu of all deductions~~
26 ~~allowed under 15-30-2131. The minimum standard deduction is \$1,980, as adjusted under the provisions of~~
27 ~~subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of~~
28 ~~\$4,460, as adjusted under the provisions of subsection (2). However, in the case of a single joint return of~~
29 ~~husband and wife or in the case of a single individual who qualifies to file as a head of household on the federal~~
30 ~~income tax return, the minimum standard deduction is twice the amount of the minimum standard deduction for~~

1 a single return, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever
 2 is greater, to a maximum standard deduction of twice the amount of the maximum standard deduction for a single
 3 return, as adjusted under the provisions of subsection (2). The standard deduction may not be allowed to either
 4 the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction.
 5 For purposes of this section, the determination of whether an individual is married must be made as of the last
 6 day of the tax year unless one of the spouses dies during the tax year, in which case the determination must be
 7 made as of the date of death.

8 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum
 9 standard deduction for single returns the amount in subsection (1) by the inflation factor for the following tax year
 10 and round the product to the nearest \$10. The resulting adjusted ~~deductions are~~ deduction is effective for that
 11 the following tax year and must be used in calculating the tax imposed in 15-30-2103."
 12

13 **Section 11.** Section 15-30-2152, MCA, is amended to read:

14 **"15-30-2152. Computation of income of estates or trusts -- exemption.** (1) Except as otherwise
 15 provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in
 16 the tax year, including but not limited to the following items:

17 (a) dividends;

18 ~~(b) interest received or accrued, including interest received on obligations of another state or territory~~
 19 ~~or a county, municipality, district, or other political subdivision of the state, but excluding interest income from~~
 20 ~~obligations of:~~

21 ~~—— (i) the United States government or the state of Montana;~~

22 ~~—— (ii) a school district; or~~

23 ~~—— (iii) a county, municipality, district, or other political subdivision of the state;~~

24 ~~(e)(b)~~ income from partnerships and other fiduciaries;

25 ~~(d)(c)~~ gross rents and royalties;

26 ~~(e)(d)~~ gain from sale or exchange of property, including those gains that are excluded from gross income
 27 for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954 (now deleted);
 28 and

29 ~~(f)(e)~~ gross profit from trade or business; ~~and~~

30 ~~—— (g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a~~

1 ~~reduction of Montana income tax liability.~~

2 (2) In computing net income, there are allowed as deductions:

3 (a) interest expenses deductible for federal tax purposes according to section 163 of the Internal
4 Revenue Code, 26 U.S.C. 163;

5 ~~(b) taxes paid or accrued within the tax year, including but not limited to federal income tax, but excluding
6 Montana income tax;~~

7 ~~(e)(b)~~ that fiduciary's portion of depreciation or depletion that is deductible for federal tax purposes
8 according to sections 167, 611, and 642 of the Internal Revenue Code, 26 U.S.C. 167, 611, and 642;

9 ~~(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of
10 the Internal Revenue Code, 26 U.S.C. 642(c);~~

11 ~~(e)(c)~~ administrative expenses claimed for federal income tax purposes, according to sections 212 and
12 642(g) of the Internal Revenue Code, 26 U.S.C. 212 and 642(g);

13 ~~(f)(d)~~ losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated
14 for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal
15 Revenue Code, 26 U.S.C. 165; and

16 ~~(g)(e)~~ net operating loss deductions allowed for federal income tax under section 642(d) of the Internal
17 Revenue Code, 26 U.S.C. 642(d), except estates may not claim losses that are deductible on the decedent's final
18 return;

19 ~~(h) Montana income tax refunds or tax refund credits.~~

20 (3) The following additional deductions are allowed in deriving taxable income of estates and trusts:

21 (a) any amount of income for the tax year currently required to be distributed to beneficiaries for the year;

22 (b) any other amounts properly paid or credited or required to be distributed for the tax year.

23 (4) The exemption allowed for estates and trusts is that exemption provided in 15-30-2114(2)(a) and
24 ~~(6)(4).~~"

25

26 **Section 12.** Section 15-30-2320, MCA, is amended to read:

27 **"15-30-2320. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in
28 subsection (1)(b), ~~an individual, a corporation, a partnership, or a small business corporation as defined in~~
29 ~~15-30-3304~~ is allowed a tax credit against taxes imposed by ~~15-30-2403~~ or 15-31-101 for equipment and labor
30 costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

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

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

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

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

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

8 (a) natural gas;

9 (b) liquefied petroleum gas;

10 (c) liquefied natural gas;

11 (d) hydrogen;

12 (e) electricity; or

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

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

16 (b) There is no carryback or carryforward of the credit permitted under this section, and the credit must
17 be applied in the year the conversion is made, as determined by the taxpayer's accounting method."
18

19 **Section 13.** Section 15-30-2326, MCA, is amended to read:

20 **"15-30-2326. Credit for contributions to university or college foundations and endowment funds.**

21 (1) (a) ~~An individual, corporation, partnership, or small business~~ A corporation, as defined in 15-30-3301, is
22 allowed a tax credit against taxes imposed by ~~15-30-2103~~ or 15-31-101 in an amount equal to 10% of the
23 aggregate amount of charitable contributions made by the taxpayer during the year to a foundation or a general
24 endowment fund of:

25 (i) the Montana university system or any unit or campus of the Montana university system;

26 (ii) a Montana private college;

27 (iii) a Montana community college that is part of a community college district defined and organized as
28 provided in 20-15-101; or

29 (iv) a tribal college located in Montana that meets the requirements of 25 U.S.C 1804.

30 (b) The maximum credit that a taxpayer may claim in a year under this section is \$500. The credit

1 allowed under this section may not exceed the taxpayer's income tax liability.

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

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

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

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

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

13

14 **Section 14.** Section 15-30-2357, MCA, is amended to read:

15 **"15-30-2357. Tax credit for hiring registered apprentice or veteran apprentice.** (1) Subject to the
16 provisions of 39-6-109, a taxpayer is allowed a credit against the ~~tax imposed by chapter 31 or this chapter~~ taxes
17 otherwise due under 15-31-121 or 15-31-122 for employing a registered apprentice or registered veteran
18 apprentice who works in Montana.

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

20 (3) The credit may be claimed only in the tax year in which the department of labor and industry
21 approved the credit as provided in 39-6-109(4). If a taxpayer claims the credit but was not approved by the
22 department of labor and industry, the taxpayer's return must be processed without regard to the credit.

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

25 (5) Subject to the probationary period provided for in 39-6-109, if an employer employs an apprentice
26 for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the
27 apprentice was employed.

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

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

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

7 ~~(8)~~(9) The department may adopt rules, prepare forms, and maintain records that are necessary to
 8 implement this credit."

9

10 **Section 15.** Section 15-30-2380, MCA, is amended to read:

11 **"15-30-2380. (Temporary) Credit for unlocking public lands program -- definitions.** (1) A taxpayer
 12 is allowed a credit against the taxes imposed by ~~Title 15, chapter 30 or 31, 15-31-121 or 15-31-122~~ in the amount
 13 of \$750 for each qualified access to public land that is provided. The maximum credit that a taxpayer may claim
 14 in a year under this section is \$3,000.

15 (2) If the amount of the credit exceeds the taxpayer's liability under ~~Title 15, chapter 30 or 31, this chapter~~
 16 the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has
 17 no taxable income.

18 (3) If the property through which access is provided is owned by multiple taxpayers, the taxpayers may
 19 claim a proportionate share of the \$750 credit based on their respective ownership interests in that property.

20 (4) If qualified access to the same parcel of public land is provided through separate properties owned
 21 by different taxpayers, the taxpayer for each property may claim a \$750 credit.

22 (5) For purposes of this section:

23 (a) "public land" means:

24 (i) state land, as defined in 77-1-101; or

25 (ii) federal land managed by the U.S. forest service or the bureau of land management; and

26 (b) "qualified access to public land":

27 (i) means an access or corridor established through a taxpayer's property to a parcel of public land for
 28 recreational use and certified by the department of fish, wildlife, and parks pursuant to 87-1-294;

29 (ii) does not include a corridor established between two or more parcels of public land when the public
 30 land parcels are surrounded by private land that the landowner or landowners have not granted permission to

1 cross and there is no other legal access. (Terminates December 31, 2027--secs. 1, 2, Ch. 139, L. 2017.)"

2

3 **Section 16.** Section 15-30-2501, MCA, is amended to read:

4 **"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions apply:

5 (1) "Agricultural labor" means all services performed on a farm or ranch in connection with cultivating
6 the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising,
7 shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and
8 wildlife.

9 (2) (a) "Employee" means:

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

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

15 (iii) an officer of a corporation;

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

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

19 (3) "Employer" means:

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

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

25 (i) a state government and any of its political subdivisions or instrumentalities;

26 (ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability
27 company, or domestic or foreign corporation;

28 (iii) a receiver, a trustee, including a trustee in bankruptcy, or the trustee's successor; or

29 (iv) a legal representative of a deceased person; or

30 (c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance

1 purposes, or under Title 39, chapter 71, for workers' compensation purposes.

2 (4) "Lookback period" means the 12-month period ending the preceding June 30.

3 (5) "Sole proprietor" means an individual doing business in a noncorporate form and includes the
4 member of a single-member limited liability company that is a disregarded entity if the member is an individual.

5 (6) (a) Except as provided in subsection (6)(b), "wages" has the meaning provided in section 3401 of
6 the Internal Revenue Code, 26 U.S.C. 3401.

7 (b) The term does not include:

8 ~~(i) tips and gratuities exempt from taxation under 15-30-2110;~~

9 ~~—— (ii) health insurance premiums attributed as income to an employee under federal law that are exempt
10 from taxation under 15-30-2110;~~

11 ~~—— (iii) unemployment compensation, including supplemental unemployment compensation treated as wages
12 under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as
13 provided in 15-30-2101;~~

14 ~~(iv)(i) any amount paid a sole proprietor; or~~

15 ~~(v)(ii) any amount paid for agricultural labor."~~

16

17 **Section 17.** Section 15-30-2602, MCA, is amended to read:

18 **"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits -- inflation**

19 **adjustment.** (1) For both resident and nonresident taxpayers, each individual or each married couple not filing
20 a joint return and having a gross income for the tax year of more than the ~~maximum~~ standard deduction for that
21 filing status, as determined in 15-30-2132, is liable for a return to be filed on forms and according to rules that
22 the department may prescribe. The gross income amounts referred to in this subsection (1) must be increased
23 by the personal exemption allowance determined in 15-30-2114 ~~for each additional personal exemption allowance~~
24 ~~that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).~~

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

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

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

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

13 (6) Individual income tax forms distributed by the department for each tax year must contain instructions
14 and tables based on the adjusted base year structure for that tax year."

15

16 **Section 18.** Section 15-30-2618, MCA, is amended to read:

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

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

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

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

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

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

30 (b) The court may require the production of and may admit in evidence only as much of the reports or

1 of the facts shown by the reports as are pertinent to the action or proceedings.

2 (3) This section does not prohibit:

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

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

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

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

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

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

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

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

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

27 (8) The department may permit the commissioner of internal revenue of the United States or the proper
28 officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer
29 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an
30 abstract of the return of income of any individual or supply the officer with information concerning an item of

1 income contained in a return or disclosed by the report of an investigation of the income or return of income of
 2 an individual, but the permission may be granted or information furnished only if the statutes of the United States
 3 or of the other state grant substantially similar privileges to the proper officer of this state charged with the
 4 administration of this chapter.

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

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

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

12 ~~(c)(b)~~ to the department of labor and industry:

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

17 ~~——(ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer and~~
 18 ~~apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;~~

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

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

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

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

30 ~~(h)(g)~~ to the department of commerce tax information about a taxpayer whose debt is assigned to the

1 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information
 2 provided to the department of commerce must be used for the purposes of preventing and detecting fraud or
 3 abuse and determining eligibility for grants or loans.

4 ~~(f)(h)~~ to the superintendent of public instruction information required under 20-9-905. (Subsection ~~(9)~~~~(f)~~
 5 ~~(9)~~~~(h)~~ terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

6

7 **Section 19.** Section 15-30-3003, MCA, is amended to read:

8 **"15-30-3003. (Temporary) Montana farm and ranch risk management account -- deposits --**
 9 **exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural
 10 business may ~~create~~ hold a Montana farm and ranch risk management account that is composed of contributions
 11 that were made to the account prior to January 1, 2020, as provided in this part, to use as a risk management
 12 tool for the individual's or family farm corporation's agricultural business. The number of risk management
 13 accounts that may be ~~created~~ held is limited to one for each individual or family farm corporation.

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

18 ~~——(a) during the a tax year; or~~

19 ~~——(b) for a specific tax year if it is made within 3 1/2 months after the close of the tax year~~ beginning before
 20 January 1, 2020.

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

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

26

27 **Section 20.** Section 15-30-3004, MCA, is amended to read:

28 **"15-30-3004. (Temporary) Montana farm and ranch risk management account -- creation --**
 29 **administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the
 30 state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an

1 investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The
2 trust must be created by written instrument.

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

5 ~~(3)~~(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months
6 of the date of deposit.

7 ~~(4)~~(3) The assets of the trust must consist entirely of cash or of obligations that have adequate stated
8 interest and that pay the interest at least annually.

9 ~~(5)~~(4) All income of the trust must be distributed currently to the grantor.

10 ~~(6)~~(5) The assets of the trust may not be commingled with other property except in a common trust fund
11 or common investment fund. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

12

13 **Section 21.** Section 15-30-3102, MCA, is amended to read:

14 **"15-30-3102. (Temporary) Definitions.** As used in this part, the following definitions apply:

15 ~~(1) "Department" means the department of revenue provided for in 2-15-1301.~~

16 ~~——(2) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on~~
17 ~~or before September 10 of the year of attendance and has not yet reached 19 years of age.~~

18 ~~(3)~~(1) "Geographic region" has the meaning provided in 20-9-903.

19 ~~(4)~~(2) "Large district" has the meaning provided in 20-9-903.

20 ~~(5) "Partnership" has the meaning provided in 15-30-2101.~~

21 ~~——(6) "Pass-through entity" has the meaning provided in 15-30-2101.~~

22 ~~——(7) "Qualified education provider" means an education provider that:~~

23 ~~——(a) is not a public school;~~

24 ~~——(b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or~~
25 ~~national accreditation organization; or~~

26 ~~——(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing~~
27 ~~at the time of enrollment that the provider is not accredited and is not seeking accreditation;~~

28 ~~——(c) is not a home school as referred to in 20-5-102(2)(e);~~

29 ~~——(d) administers a nationally recognized standardized assessment test or criterion-referenced test and:~~

30 ~~——(i) makes the results available to the child's parents or legal guardian; and~~

1 ~~—— (ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a~~
 2 ~~publicly accessible private website or provides the composite results of the test to the office of public instruction~~
 3 ~~for posting on its website;~~

4 ~~—— (e) satisfies the health and safety requirements prescribed by law for private schools in this state; and~~

5 ~~—— (f) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.~~

6 ~~—— (8) "Small business corporation" has the meaning provided in 15-30-3301.~~

7 ~~—— (9) "Student scholarship organization" means a charitable organization in this state that:~~

8 ~~—— (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26~~
 9 ~~U.S.C. 501(c)(3);~~

10 ~~—— (b) allocates not less than 90% of its annual revenue for scholarships to allow students to enroll with any~~
 11 ~~qualified education provider; and~~

12 ~~—— (c) provides educational scholarships to eligible students without limiting student access to only one~~
 13 ~~education provider.~~

14 ~~—— (10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2023--sec. 33, Ch.~~
 15 ~~457, L. 2015.)"~~

16

17 **Section 22.** Section 15-30-3110, MCA, is amended to read:

18 **"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools --**
 19 **innovative educational program.**(1) Subject to subsection (5) (4), a taxpayer or corporation is allowed a credit
 20 against the tax imposed by this chapter 30 or 34 for donations made to the educational improvement account
 21 provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative
 22 educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region
 23 or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the
 24 donation, not to exceed \$150.

25 ~~(2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-through~~
 26 ~~entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same~~
 27 ~~proportion as used to report the entity's income or loss.~~

28 ~~—— (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may~~
 29 ~~be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's~~
 30 ~~income from the estate or trust for Montana income tax purposes.~~

1 ~~(3)~~(2) The credit allowed under this section may not exceed the taxpayer's income tax liability.

2 ~~(4)~~(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must
3 be applied in the year the donation is made, as determined by the taxpayer's accounting method.

4 ~~(5)~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in
5 tax year 2016.

6 (ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the
7 aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department.
8 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the
9 succeeding tax years.

10 (iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base
11 aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of
12 subsection ~~(5)(a)(ii)~~ (4)(a)(ii).

13 (b) The department shall approve the amount of donations for taxpayers on a first-come, first-served
14 basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes
15 a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed
16 without regard to the credit.

17 ~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for
18 state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3) of
19 the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

20 (a) claiming a credit under this section instead of a deduction; or

21 (b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount for
22 which the credit is allowed under this section.

23 ~~(7)~~(6) After consultation with the superintendent of public instruction, the department may develop an
24 internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax
25 credit before making a donation. (Terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

26

27 **Section 23.** Section 15-31-131, MCA, is amended to read:

28 **"15-31-131. Credit for dependent care assistance and referral services.** (1) There is a credit against
29 the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the tax
30 year by the employer for dependent care assistance actually provided to or on behalf of an employee if the

1 assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the
2 requirements of section 129(d)(2) through (6) of the Internal Revenue Code, 26 U.S.C. 129(d)(2) through (d)(6).

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

6 (b) For the purposes of this subsection, marital status must be determined under the rules of section
7 21(e)(3) and (4) of the Internal Revenue Code, 26 U.S.C. 21(e)(3) and (e)(4).

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

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

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

16 (4) An amount paid or incurred during the tax year of an employer in providing dependent care
17 assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the
18 amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code,
19 26 U.S.C. 129(c)(1) or (c)(2).

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

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

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

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

28 ~~(7) The amount upon which the credit allowed under subsection (1) is based may not be included in the~~
29 ~~gross income of the employee to whom the dependent care assistance is provided. However, the amount~~
30 ~~excluded from the income of an employee under this section may not exceed the limitations provided in section~~

1 ~~129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15, chapter 30, part 25, with respect~~
 2 ~~to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded~~
 3 ~~under this subsection. Amounts excluded under this subsection do not qualify as expenses for which a deduction~~
 4 ~~is allowed to the employee under 15-30-2134.~~

5 ~~(8)(7)~~ Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular
 6 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any
 7 credit remaining unused in the next succeeding tax year may be carried forward and used in the second
 8 succeeding tax year and likewise through the fifth year succeeding the tax year in which the credit was first
 9 allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

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

15 ~~(10)(8)~~ For purposes of the credit allowed under subsection (1) or (3):

16 (a) the definitions and special rules contained in section 129(e) of the Internal Revenue Code, 26 U.S.C.
 17 129(e), apply to the extent applicable; and

18 (b) "employer" means an employer carrying on a business, trade, occupation, or profession in this state."
 19

20 **Section 24.** Section 15-31-134, MCA, is amended to read:

21 **"15-31-134. Empowerment zone new employees -- tax credit.** (1) There is a credit for taxes due
 22 under 15-31-121 or 15-31-122 for an employer for each new employee at a business in an empowerment zone
 23 created pursuant to Title 7, chapter 21, part 37. The taxpayer must be certified by the department of labor and
 24 industry to be eligible to receive the credit as provided in 7-21-3710.

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

26	1st year of employment	\$500
27	2nd year of employment	\$1,000
28	3rd year of employment	\$1,500

29 (3) If the amount of the credit exceeds the taxpayer's liability, the credit may be carried forward 7 years

1 and carried back 3 years. The entire amount of the tax credit not used in the year earned must be carried first
2 to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

3 (4) If the credit allowed under this section is claimed by a small business corporation; as defined in
4 15-30-3301, ~~a pass-through entity, or a partnership~~, the credit must be attributed to shareholders, ~~owners, or~~
5 ~~partners~~ using the same proportion as used to report the entity's income or loss."
6

7 **Section 25.** Section 15-31-137, MCA, is amended to read:

8 **"15-31-137. Small business corporation and partnership credit for alternative fuel conversion.** If
9 equipment and labor costs incurred to convert a motor vehicle to operate on alternative fuel are claimed as a
10 credit under 15-30-2320 by a small business corporation; as defined in 15-30-3301, ~~or a partnership~~, the credit
11 must be attributed to shareholders or partners using the same proportion used to report the corporation's or
12 partnership's income or loss for Montana income tax purposes."
13

14 **Section 26.** Section 15-31-151, MCA, is amended to read:

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

19 (b) The amount of the credit allowed for a tax year is 25% of the amount of the credit determined under
20 26 U.S.C. 47(a)(2) or as that section may be renumbered or amended.

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

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

1 **Section 27.** Section 15-31-171, MCA, is amended to read:

2 **"15-31-171. Tax credit for providing emergency lodging.** (1) There is a credit for taxes otherwise due
3 under this chapter for participation in the emergency lodging program established in 50-51-114.

4 (2) The tax credit is:

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

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

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

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

10 (5) If the credit allowed under this section is claimed by a small business corporation; as defined in
11 15-30-3301, ~~or a partnership,~~ the credit must be attributed to shareholders ~~or partners,~~ using the same proportion
12 to report the corporation's ~~or partnership's~~ income or loss for Montana income tax purposes."
13

14 **Section 28.** Section 15-31-172, MCA, is amended to read:

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

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

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

23 (3) the electing small business corporation receives a written statement from the donee in which the
24 donee agrees to accept the property and representing that the use and disposition of the property will be in
25 accordance with the provisions of subsection (2); ~~and~~

26 ~~—— (4) the deduction allowed in this section is in lieu of the deduction allowed under 15-30-2131 for~~
27 ~~charitable contributions."~~

28

29 **Section 29.** Section 15-31-511, MCA, is amended to read:

30 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with

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

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

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

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

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

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

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

15 (3) This section does not prohibit:

16 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer
17 who filed the return or report or to the taxpayer's authorized representative;

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

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

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

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

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

1 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
 2 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
 3 (1);

4 (b) provide corporate income tax and alternative corporate income tax information, including any
 5 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided
 6 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.
 7 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject
 8 to the same restrictions on disclosure outside those offices as provided in subsection (1).

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

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

14 (e) exchange with the department of labor and industry taxpayer and apprentice information necessary
 15 to implement 15-30-2357, ~~15-34-473~~, and 39-6-109.

16 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or
 17 public employee is convicted of violating this section, the person is dismissed from office or employment and may
 18 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case
 19 of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31,
 20 2023--sec. 33, Ch. 457, L. 2015.)"

21
 22 **Section 30.** Section 15-32-104, MCA, is amended to read:
 23 **"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103 and ~~15-32-109~~ is
 24 limited to ~~persons and firms~~ corporations not primarily engaged in the provision of gas or electricity derived from
 25 fossil fuel extraction or conventional hydroelectric development."
 26

27 **Section 31.** Section 15-32-105, MCA, is amended to read:
 28 **"15-32-105. Application to new construction -- rules.** (1) It is the intent of the legislature that no
 29 deduction or credit under this part be allowed for capital investment for an energy conservation practice in the
 30 new construction of a building if that capital investment would have been made under established standards of

1 new construction. The department of revenue shall adopt rules to implement this legislative intent. ~~Such~~ The rules
 2 ~~shall~~ must be based on the best currently available methods of analysis, including those of the national bureau
 3 of standards, the department of housing and urban development, and other federal agencies and professional
 4 societies and materials developed by the department. Provisions ~~shall~~ must be made for an annual updating of
 5 rules and standards as required.

6 (2) The department may adopt rules to define standard components of conventional buildings and to
 7 establish other necessary elements of the definition of passive solar system consistent with the intent of
 8 15-32-102."

9

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

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

20

21 **Section 33.** Section 15-32-115, MCA, is amended to read:

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

1 deduction under 15-32-103.

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

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

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

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

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

8 (e) design and labor."

9

10 **Section 34.** Section 15-32-303, MCA, is amended to read:

11 **"15-32-303. Deduction for purchase of Montana-produced organic or inorganic fertilizer.** In
12 addition to all other deductions from adjusted gross individual income allowed in computing taxable income under
13 Title 15, chapter 30, or from gross corporate income allowed in computing net income under Title 15, chapter 31,
14 part 1, a taxpayer may deduct expenditures for organic fertilizer and inorganic fertilizer produced as a byproduct
15 produced in Montana and used in Montana if the expenditure was not otherwise deducted in computing taxable
16 income."

17

18 **Section 35.** Section 15-32-402, MCA, is amended to read:

19 **"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.**

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

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

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

30 (c) the alternative energy generating equipment in which the investment for which a credit is being

1 claimed was made.

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

5 (a) generating equipment;

6 (b) safety devices and storage components;

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

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

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

12

13 **Section 36.** Section 15-32-404, MCA, is amended to read:

14 **"15-32-404. Carryover of credit.** (1) The tax credit allowed under 15-32-402 is to be deducted from that
15 portion of the taxpayer's tax liability as set forth in 15-32-402(1) for the tax year in which the equipment invested
16 in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the
17 tax year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability
18 in the next succeeding tax year or years until the total amount of the tax credit has been deducted from tax
19 liability. However, except as provided in subsection (2), a credit may not be carried beyond the seventh tax year
20 succeeding the tax year in which the equipment was placed in service.

21 (2) A credit may be extended through the 15th tax year succeeding the tax year in which the equipment
22 was placed in service if ~~an individual, corporation, partnership, or small business~~ a corporation, ~~as defined in~~
23 ~~15-30-3304:~~

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

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

29

30 **Section 37.** Section 15-32-502, MCA, is amended to read:

1 **"15-32-502. Definitions.** For purposes of this part, the following definitions apply:

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

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

7 (ii) direct labor costs and the cost of benefits for employees directly associated with work described in
8 15-32-503;

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

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

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

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

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

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

20 (2) "Credit" means the exploration incentive credit for activities involving mineral and coal deposits
21 authorized by this part.

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

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

25 (b) chemical analytical data available; or

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

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

30 (5) "Geophysical methods" means all geophysical data gathering methods used in mineral or coal

1 exploration, including seismic, gravity, magnetic, radiometric, radar, and electromagnetic and other remote
2 sensing measurements.

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

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

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

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

13 ~~(9)(8)~~ "Tax year" means the calendar year."
14

15 **Section 38.** Section 15-32-503, MCA, is amended to read:

16 **"15-32-503. Exploration incentive credit.** (1) The department shall grant to a person corporation a
17 credit against the person's corporation's tax liability under Title 15, chapter ~~30~~ or 31, for the certified expenditures
18 of the following exploration activities that are performed on land in the state for the purpose of determining the
19 existence, location, extent, or quality of a mineral or coal deposit, regardless of land ownership:

20 (a) surveying by geophysical or geochemical methods;

21 (b) drilling exploration holes;

22 (c) conducting underground exploration;

23 (d) surface trenching and bulk sampling; or

24 (e) performing other exploratory work, including aerial photographs, geological and geophysical logging,
25 sample analysis, and metallurgical testing.

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

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

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

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

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

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

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

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

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

26

27 **Section 39.** Section 15-32-504, MCA, is amended to read:

28 **"15-32-504. Procedure for requesting and certifying credit.** To obtain the credit authorized by this
29 part, a person corporation shall submit a request to the department for the credit as follows:

30 (1) On a form provided by the department, the person corporation shall submit the request and a

1 statement of expenditures for the previous calendar year not later than 60 days after the close of that calendar
2 year.

3 (2) The request must:

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

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

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

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

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

19 (6) If the department neither certifies nor denies certification of expenditures by September 30, the
20 expenditures are certified as submitted."
21

22 **Section 40.** Section 15-32-505, MCA, is amended to read:

23 **"15-32-505. Application of credit.** (1) In a tax year, a person corporation may take a credit that was
24 approved under 15-32-504 against taxes payable by the person corporation. The credit may not exceed 50% of
25 the person's corporation's tax liability under ~~either~~ Title 15, chapter ~~30~~ or 31, for the tax year that is related to
26 production from the mining operation at which the exploration activities occurred.

27 (2) If a person corporation applies the credit against the person's corporation's tax liability under
28 subsection (1), the department shall disallow application of the credit under that provision unless the person
29 corporation files with the person's corporation's tax return an accounting of the person's corporation's exploration
30 activities for each mining operation that is included in the tax return and as to which the credit is being applied.

1 The accounting of exploration activities required by this subsection must be made on a form prescribed by the
2 department. On the form, the person corporation shall:

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

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

6 (3) A person corporation may not apply the credit under this section if the application, when added to
7 credits previously applied under this section, would exceed the total amount of the credits approved under
8 15-32-504."

9

10 **Section 41.** Section 15-32-507, MCA, is amended to read:

11 **"15-32-507. Credit limitation.** A credit for each distinct mining operation may not exceed a total of \$20
12 million for all exploration activities under 15-32-503 and accrues at the rate of 50% of the certified expenditures
13 each year. The credit must be applied within 15 tax years after the taking of the credit is approved under
14 15-32-504. However, the tax year or years in which the credit is applied need not be:

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

17 (2) consecutive tax years."

18

19 **Section 42.** Section 15-32-508, MCA, is amended to read:

20 **"15-32-508. Credit assignment.** A person corporation may assign a credit to the person's corporation's
21 successor in interest for the mining operation at which the exploration activities occur, but only if the successor
22 in interest is a person corporation qualified to obtain the credit under 15-32-503. A credit may not be assigned
23 except as permitted in this section."

24

25 **Section 43.** Section 15-32-509, MCA, is amended to read:

26 **"15-32-509. Record of credit use.** For each mining operation, the department may require a person
27 corporation who submits a request to take the credit under 15-32-504 to provide with the request a record of:

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Section 44. Section 15-32-510, MCA, is amended to read:

"15-32-510. Deduction for donation of exploration information. (1) In addition to all other deductions from ~~adjusted gross individual income allowed in computing taxable income under Title 15, chapter 30, or from~~ gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct documented expenses for the donation of mineral exploration information generated as part of the certified expenditures. The information must be donated to the Montana tech foundation to reside as part of the Montana tech research library, and the documented expenses must be based on the cost of recreating the donated information.

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

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

Section 45. Section 15-32-602, MCA, is amended to read:

"15-32-602. Amount and duration of credit -- how claimed. (1) ~~An individual, corporation, partnership, or small business~~ A corporation, as defined in 15-30-3304, may receive a credit against taxes imposed by Title 15, chapter ~~30 or~~ 31, for investments in depreciable property to collect or process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

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

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

- (a) 25% of the cost of the property on the first \$250,000 invested;
 - (b) 15% of the cost of the property on the next \$250,000 invested; and
 - (c) 5% of the cost of the property on the next \$500,000 invested.
- (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million."

1 **Section 46.** Section 15-32-603, MCA, is amended to read:

2 **"15-32-603. Credit for investment in property used to collect or process reclaimable material or**
 3 **to manufacture a product from reclaimed material.** (1) The following requirements must be met to be entitled
 4 to a tax credit for investment in property to collect or process reclaimable material or to manufacture a product
 5 from reclaimed material:

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

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

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

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

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

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

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

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

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

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

5 ~~(5) If the taxpayer is a shareholder of an electing small business corporation, the credit must be~~
6 ~~computed using the shareholder's pro-rata share of the corporation's cost of investing in equipment necessary~~
7 ~~to collect or process reclaimable material or to manufacture a product from reclaimed material. In all other~~
8 ~~respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law."~~

9

10 **Section 47.** Section 15-32-610, MCA, is amended to read:

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

16

17 **Section 48.** Section 15-32-701, MCA, is amended to read:

18 **"15-32-701. Oilseed crush facility -- tax credit.** (1) ~~An individual, corporation, partnership, or small~~
19 ~~business~~ A corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter
20 ~~30 or~~ 31, for the costs of investments in depreciable property in Montana that is used primarily for crushing
21 oilseed crops for purposes of producing biodiesel or biolubricant.

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

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

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

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

4 ~~(ii) If more than one person has an interest in a business with qualifying property, they~~ The taxpayer may
5 allocate all or any part of the investment cost among themselves between the taxpayer and their the taxpayer's
6 successors or assigns.

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

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

13 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
14 in which the credit is initially claimed may be carried forward for credit against a taxpayer's tax liability for any
15 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
16 not be carried forward to any tax year in which the facility in which the depreciable property is installed is not
17 crushing oilseed or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility
18 in which property is installed and for which a credit is claimed ceases production of biodiesel or biolubricant for
19 a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within
20 5 years after a year in which the credit was carried forward, the credit is subject to recapture. The person claiming
21 the credit is liable for the total amount of the credit in the event of recapture.

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

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

28 ~~(9)~~(8) For the purposes of this section, "biolubricant" means a commercial or industrial product, other
29 than food or feed, that is composed in whole or in substantial part of biological products, renewable domestic
30 agricultural materials, including plant, animal, or marine materials, or forestry materials and that is used in place

1 of a petroleum-based lubricant."

2

3 **Section 49.** Section 15-32-702, MCA, is amended to read:

4 **"15-32-702. Biodiesel or biolubricant production facility tax credit.** (1) ~~An individual, corporation,~~
5 ~~partnership, or small business~~ A corporation, as defined in 15-30-3301, may receive a credit against taxes
6 imposed by Title 15, chapter ~~30~~ or 31, for the costs of investments in depreciable property for constructing or
7 equipping a facility, or both, in Montana to be used for biodiesel or biolubricant production.

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

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

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

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

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

20 (ii) ~~If more than one person has an interest in a business with qualifying property, they~~ The taxpayer may
21 allocate all or any part of the investment cost ~~among themselves~~ between the taxpayer and their the taxpayer's
22 successors or assigns.

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

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

29 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
30 in which the credit was initially taken may be carried forward for credit against a taxpayer's tax liability for any

1 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
 2 not be carried forward to any tax year in which the facility in which the depreciable property is installed is not
 3 producing biodiesel or biolubricant or beyond the 7th tax year after the tax year for which the credit was initially
 4 claimed. If a facility for which a credit is claimed ceases production of biodiesel or biolubricant for a period of 12
 5 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a
 6 year in which the credit was carried forward, the credit is subject to recapture. The person claiming the credit is
 7 liable for the total amount of the credit in the event of recapture.

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

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

14 ~~(9)~~(8) As used in this section, the following definitions apply:

15 (a) "Biodiesel" has the meaning provided in 15-70-401.

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

17

18 **Section 50.** Section 15-32-703, MCA, is amended to read:

19 **"15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.**

20 ~~(1) An individual, corporation, partnership, or small business~~ A corporation, as defined in 15-30-3301, may receive
 21 a credit against taxes imposed by Title 15, chapter ~~30~~ or 31, for the costs of investments in depreciable property
 22 used for storing or blending biodiesel with petroleum diesel for sale.

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

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

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

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

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

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

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

10 (ii) ~~If more than one person has an interest in a business with qualifying property, they~~ The taxpayer may
11 allocate all or any part of the investment cost ~~among themselves~~ between the taxpayer and their the taxpayer's
12 successors or assigns.

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

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

18 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
19 in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any
20 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
21 not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending
22 or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit
23 is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within
24 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was
25 carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total
26 credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event
27 of recapture.

28 (7) 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 ~~(8) 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 the biodiesel blending
 2 facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
 3 provided by law.

4 ~~(9)~~(8) As used in this section, "biodiesel" has the meaning provided in 15-70-401.

5 ~~(10)~~(9) The department shall report to the revenue and transportation interim committee biennially
 6 regarding the number and type of taxpayers claiming the credit under this section, the total amount of the credit
 7 claimed, and the department's cost associated with administering the credit."

8

9 **Section 51.** Section 15-50-207, MCA, is amended to read:

10 **"15-50-207. Credit against other taxes -- credit for personal property taxes and certain fees.** (1) (a)

11 The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the
 12 contractor's corporate income tax provided for in chapter 31 of this title ~~or on the contractor's income tax provided~~
 13 ~~for in chapter 30, depending upon the type of tax the contractor is required to pay under the laws of the state.~~

14 (b) The credit allowed under this subsection (1) may be used as a carryforward against taxes imposed
 15 by chapter ~~30~~ or 31 for the 5 succeeding tax years. The entire amount of the credit not used in the year earned
 16 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
 17 year.

18 (2) ~~Personal~~ Up to twice the amount of property taxes and the fee in lieu of tax on buses, trucks having
 19 a manufacturer's rated capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration
 20 fee on light vehicles, as provided in 61-3-321(2) and 61-3-562, paid in Montana on any personal property or
 21 vehicle of the contractor that is used in the business of the contractor and is located within this state may be
 22 credited against the license fees required under this chapter, not to exceed license fees due under 15-50-206.
 23 However, in computing the tax credit allowed by this section against the contractor's ~~income tax~~ or corporate
 24 income tax, the tax credit against the license fees required under this chapter may not be considered as license
 25 fees paid for the purpose of the ~~income tax~~ or corporate income tax credit."

26

27 **Section 52.** Section 15-61-202, MCA, is amended to read:

28 **"15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, ~~the amount of principal~~
 29 ~~provided for in subsection (2) contributed annually by an employee or account holder to an account and all~~
 30 ~~interest or other income on that~~ the principal that was contributed to a medical care savings account prior to

1 January 1, 2020, may be excluded from the adjusted gross income of the employee or account holder and ~~are~~
 2 ~~is~~ exempt from taxation, ~~in accordance with 15-30-2110(2)(j)~~; as long as the principal and interest or other income
 3 is contained within the account, distributed to an immediate family member as provided in subsection ~~(6)~~ (5), or
 4 withdrawn only for payment of eligible medical expenses or for paying the expenses of administering the account.
 5 Any part of the principal or income, or both, withdrawn from an account may not be excluded under subsection
 6 (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than an eligible
 7 medical expense or for paying the expenses of administering the account.

8 (2) ~~(a) An employee or account holder may annually contribute not more than:~~

9 ~~—— (i) \$3,500 in tax year 2018;~~

10 ~~—— (ii) \$4,000 in tax year 2019;~~

11 ~~—— (iii) an amount determined for each subsequent tax year by multiplying the amount in subsection (2)(a)(ii)~~
 12 ~~by an inflation factor determined by dividing the consumer price index for June of the previous tax year by the~~
 13 ~~consumer price index for June 2018 and rounding the resulting figure to the nearest \$500 increment.~~

14 ~~—— (b) There~~ For contributions made prior to January 1, 2020, there is no limitation on the amount of funds
 15 and interest or other income on those funds that may be retained tax-free within an account.

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

19 ~~(4)~~(3) The transfer of money in an account owned by one employee or account holder to the account
 20 of another employee or account holder who is an immediate family member of the first employee or account
 21 holder does not subject either employee or account holder to tax liability under this section. Amounts contained
 22 within the account of the receiving employee or account holder are subject to the requirements and limitations
 23 provided in this section.

24 ~~(5)~~(4) The employee or account holder who establishes the account is the owner of the account. An
 25 employee or account holder may withdraw money in an account and deposit the money in another account with
 26 a different or with the same account administrator without incurring tax liability.

27 ~~(6)~~(5) Within 30 days of being furnished proof of the death of the employee or account holder, the
 28 account administrator shall distribute the principal and accumulated interest or other income in the account to the
 29 estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-223.
 30 An immediate family member who receives the distribution provided for in this subsection becomes the account

1 holder and may:

2 (a) within 1 year of the death of the employee or account holder from which the account was inherited,
3 withdraw funds for eligible medical expenses incurred by the deceased; and

4 (b) ~~contribute to the account~~, retain money in the account tax-free; and withdraw funds from the account
5 as provided in this chapter."
6

7 **Section 53.** Section 15-61-203, MCA, is amended to read:

8 **"15-61-203. Withdrawal of funds from account for purposes other than eligible medical expenses.**

9 (1) An employee or account holder may withdraw money from the individual's medical care savings account for
10 any purpose other than an eligible medical expense or for paying the expenses of administering the account only
11 on the last business day of the account administrator's business year. Money withdrawn from an account
12 pursuant to this subsection that had been excluded from taxation must be taxed as ordinary income of the
13 employee or account holder.

14 (2) There is a penalty equal to 10% of the amount of a withdrawal for a withdrawal other than for eligible
15 medical expenses or for expenses of administering the account or other than on the last business day of the
16 account administrator's business year. The administrator may withhold the penalty from the amount of the
17 withdrawal and, on behalf of the employee or account holder, pay the penalty to the department of revenue.
18 Payments made to the department pursuant to this section must be deposited in the general fund. Money
19 withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or
20 account holder if it had been excluded from taxation.

21 (3) For the purposes of this section, "last business day of the account administrator's business year",
22 as applied to an account administrator who is also the account holder or an employee, means the last weekday
23 in December."
24

25 **Section 54.** Section 15-62-208, MCA, is amended to read:

26 **"15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at
27 a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that
28 reduced adjusted gross income ~~under 15-30-2110(11)~~ on contributions made prior to January 1, 2020.

29 (2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross
30 income, all withdrawals must be allocated between income and contributions in accordance with the principles

1 applicable under section 529(c)(3)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 529(c)(3)(A). The portion
 2 of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions,
 3 if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions
 4 that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must
 5 be treated as first derived from contributions that reduced adjusted gross income, to the extent of the
 6 contributions, and then to contributions that did not reduce adjusted gross income.

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

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

16 (4) For the purposes of this section, all contributions made to accounts by residents of Montana prior
 17 to January 1, 2020, are presumed to have reduced the contributor's adjusted gross income unless the contributor
 18 can demonstrate that all or a portion of the contributions did not reduce adjusted gross income. ~~Contributors who~~
 19 ~~claim deductions for contributions shall report on their Montana income tax returns the amount of deductible~~
 20 ~~contributions made to accounts for each designated beneficiary and the social security number of each~~
 21 ~~designated beneficiary.~~

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

24 (a) April 30, 2001; or

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

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

28

29 **Section 55.** Section 15-63-202, MCA, is amended to read:

30 **"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of principal

1 provided for in subsection (2) contributed ~~annually prior to January 1, 2020,~~ by an account holder to an account
 2 and all interest or other income on the principal ~~that was contributed prior to January 1, 2020,~~ may be excluded
 3 from the adjusted gross income of the account holder and is exempt from taxation, ~~in accordance with~~
 4 ~~15-30-2110(2)(k),~~ as long as the principal and interest or other income is contained within the account or
 5 withdrawn only for eligible costs for the purchase of a single-family residence by a first-time home buyer. Any part
 6 of the principal or income, or both, withdrawn from an account may not be excluded under ~~subsection (2)~~ and this
 7 subsection if the amount is withdrawn from the account and used for a purpose other than for eligible costs for
 8 the purchase of a single-family residence.

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

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

12 ~~—— (c) There~~ For contributions made prior to January 1, 2020, there is no limitation on the amount of
 13 principal and interest or other income on the principal that may be retained tax-free within an account.

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

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

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

24 ~~—— (5) The transfer of money by a person other than the account holder to the account of an account holder~~
 25 ~~does not subject the account holder to tax liability under this section. Amounts contained within the account of~~
 26 ~~the receiving account holder are subject to the requirements and limitations provided in this section. The person~~
 27 ~~other than the account holder who transfers money to the account is not entitled to the tax exemption under this~~
 28 ~~section.~~

29 ~~(6)(3)~~ (3) The account holder who establishes the account, individually or jointly, is the owner of the account.
 30 An account holder may withdraw money in an account and deposit the money in another account with a different

1 account administrator or with the same account administrator without incurring tax liability.

2 ~~(7)~~(4) The account holder shall use the money in the account for the eligible costs related to the
3 purchase of a single-family residence within 10 years following the year in which the account was established.
4 Any principal and income in the account not expended on eligible costs at the time of purchase of a single-family
5 residence or any principal or income remaining in the account on December 31 of the last year of the 10-year
6 period must be taxed as ordinary income.

7 ~~(8)~~(5) The amount of a disbursement of any assets of a first-time home buyer savings account pursuant
8 to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account
9 holder does not subject the account holder to tax liability.

10 ~~(9)~~(6) Within 30 days of being furnished proof of the death of the account holder, the account
11 administrator shall distribute the principal and accumulated interest or other income in the account to the estate
12 of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

13

14 **Section 56.** Section 19-2-1004, MCA, is amended to read:

15 **"19-2-1004. Exemption from taxes and legal process.** (1) Except as provided in 19-2-907, 19-2-909,
16 and subsection (2) of this section, the right of a person to any benefit or payment from a retirement system or plan
17 and the money in the system or plan's pension trust fund is not:

18 (a) subject to execution, garnishment, attachment, or any other process;

19 (b) subject to ~~state~~, county, or municipal taxes except for:

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

21 ~~—— (ii) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as~~
22 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

23 (c) assignable except as specifically provided in this chapter.

24 (2) The right of a person to any benefit or payment from a retirement system or plan and the money in
25 the system's or plan's pension trust fund associated with that benefit or payment is subject, once the person is
26 entitled to distribution of the benefit or payment, to:

27 (a) a United States tax lien or levy for past-due taxes; and

28 (b) execution, garnishment, attachment, levy, or other process related to the collection of criminal fines
29 and orders of restitution imposed under federal law as provided for in 18 U.S.C. 3613."

30

1 **Section 57.** Section 19-17-407, MCA, is amended to read:

2 **"19-17-407. Exemption from ~~taxation and legal process.~~** ~~(1) The amount determined pursuant to~~
 3 ~~15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.~~

4 ~~(2)(1)~~ Except as provided in 19-2-907, 19-2-909, and subsection ~~(3)(2)~~ of this section, benefits received
 5 under this part are not subject to execution, garnishment, attachment, or any other process.

6 ~~(3)(2)~~ The right of a person to any benefit or payment and the money in the plan's pension trust fund
 7 associated with that benefit or payment is subject, once the person is entitled to distribution of the benefit or
 8 payment, to:

9 (a) a United States tax lien or levy for past-due taxes; and

10 (b) execution, garnishment, attachment, levy, or other process related to the collection of criminal fines
 11 and orders of restitution imposed under federal law as provided for in 18 U.S.C. 3613."

12

13 **Section 58.** Section 19-18-612, MCA, is amended to read:

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

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

22

23 **Section 59.** Section 19-19-504, MCA, is amended to read:

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

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

1

2 **Section 60.** Section 19-20-706, MCA, is amended to read:

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

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

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

9 ~~or~~

10 ~~—— (b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June~~
11 30, 1985, as provided in 19-20-602;

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

14 (3) unassignable except as specifically provided in this chapter."
15

16 **Section 61.** Section 19-21-212, MCA, is amended to read:

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

21 (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to~~
22 ~~15-30-2110(2)(c);~~ exempt from any ~~state, county, or municipal~~ tax;

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

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

25 (4) unassignable except as specifically provided in the contracts."
26

27 **Section 62.** Section 33-27-101, MCA, is amended to read:

28 **"33-27-101. Short title.** Sections 15-30-2118, ~~15-30-2141~~, 15-31-117, 15-31-118, and this chapter may
29 be cited as the "Independent Liability Fund Act"."
30

1 **Section 63.** Section 33-27-102, MCA, is amended to read:

2 **"33-27-102. Purpose.** The purpose of 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter
3 is to create a means by which small businesses operating in Montana may establish independent liability funds
4 to set aside assets or make investments to meet any liability claims that might be made against the small
5 businesses by third parties."
6

7 **Section 64.** Section 33-27-103, MCA, is amended to read:

8 **"33-27-103. Definitions.** As used in 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter,
9 the following definitions apply:

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

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

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

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

20 (5) "Third party" means a person other than an employee or the management of a small business or of
21 a subsidiary or closely related enterprise of a small business."
22

23 **Section 65.** Section 37-4-104, MCA, is amended to read:

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

30 (2) A personal representative may not:

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

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

5 (c) allow any person other than a dentist to supervise and control the selection, compensation, terms,
6 conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice;

7 (d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by a dentist
8 or the dentist's practice; or

9 (e) limit or define the scope of services offered by the dentist.

10 (3) For the purposes of this section:

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

14 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in~~
15 15-30-2140 means unable to engage in any substantial gainful activity by reason of any medically determined
16 physical or mental impairment lasting or expected to last at least 12 months; and

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

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

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

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

24

25 **Section 66.** Section 39-6-109, MCA, is amended to read:

26 **"39-6-109. Employer apprenticeship tax credit -- increased credit for employing veteran**
27 **apprentice.** (1) An employer that employs an apprentice or a veteran apprentice who works in Montana as a new
28 employee in a state-registered apprenticeship training program is eligible for an annual credit against income
29 taxes imposed pursuant to Title 15, chapter ~~30~~ or 31.

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

1 (a) except as provided in subsection (2)(b), \$750 for each apprentice employed; and

2 (b) \$1,500 for each apprentice employed who is a veteran.

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

5 (4) An employer shall apply each year to the department to receive approval to claim the credit for the
6 preceding calendar year. The credit may not be claimed for more than 5 tax years for each individual apprentice.
7 The department shall provide a successful applicant with the form provided for in 15-30-2357(6).

8 (5) Prior to approving a tax credit, the department shall verify that the employee for which the credit is
9 sought is employed in a state-registered apprenticeship program, that the employee is a new employee in an
10 apprenticeship program, and whether the employee is a veteran.

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

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

17 (8) The department shall provide to each high school in the state information about apprenticeship
18 programs, including but not limited to occupations for which apprenticeships are available, student application
19 requirements, and program requirements.

20 (9) The department may adopt rules necessary to administer this section.

21 (10) For the purposes of this section, the following definitions apply:

22 (a) "New employee" means an individual who was not employed as an apprentice or veteran apprentice
23 before January 1, 2018.

24 (b) "Veteran" has the meaning provided in 39-29-101."
25

26 **Section 67.** Section 50-51-114, MCA, is amended to read:

27 **"50-51-114. Emergency lodging program -- definitions.** (1) There is an emergency lodging program
28 for licensed establishments located in Montana to assist designated charitable organizations in providing
29 short-term lodging in Montana to individuals and families displaced from their residences.

30 (2) Except as provided in subsection (8), participating establishments may receive a tax credit as

1 provided in ~~15-30-2381~~ and 15-31-171 for providing emergency lodging to an individual or family who is:

2 (a) in immediate need of shelter based on an imminent or existing threat to the safety or security of the
3 individual or family; and

4 (b) referred to the establishment by a designated charitable organization.

5 (3) Except as provided in subsection (8), establishments participating in the emergency lodging program
6 are eligible for a tax credit as provided in ~~15-30-2381~~ and 15-31-171 for up to 5 nights of lodging for each
7 individual or family per calendar year.

8 (4) Emergency lodging provided under this section must be provided at no cost to the individual or the
9 referring organization.

10 (5) Participating establishments may offer lodging based on availability of rooms.

11 (6) The department shall maintain a registry of designated charitable organizations and shall provide a
12 list of approved organizations to establishments on request. The department shall seek comment from
13 appropriate statewide nonprofit organizations when developing and updating the registry.

14 (7) For the purposes of 50-51-115 and this section, "designated charitable organization" means an
15 organization approved by the department to make referrals for emergency lodging.

16 (8) The tax credit referred to in subsections (2) and (3) does not apply to the costs of providing lodging
17 to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or 5191 and
18 who receives financial assistance for temporary housing under 42 U.S.C. 5174."

19

20 **Section 68.** Section 53-2-211, MCA, is amended to read:

21 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the
22 unemployment compensation program of the department of labor and industry all information contained in its files
23 and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as
24 defined in 53-2-902, and food stamps. The information made available must include information on the amount
25 and source of an applicant's income. The information received from the department must be used by the
26 department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the
27 unemployment compensation program of the state and for no other purpose.

28 (2) The department shall make available to the unemployment compensation and workers' compensation
29 programs of the department of labor and industry all information contained in its files and records pertaining to
30 eligibility of persons for low-income energy assistance and weatherization. The information made available must

1 include information on the amount and source of an applicant's income. The information received from the
2 department must be used by the department of labor and industry for the purpose of determining fraud, abuse,
3 or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state
4 and for no other purpose.

5 (3) (a) Subject to federal restrictions, the department may request information from the department of
6 labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the
7 department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers'
8 compensation, or occupational benefits, the department of labor and industry may request information from the
9 department of revenue pertaining to income as provided in 15-30-2618(9)(e).

10 (b) The information must be used by the department for the purpose of determining fraud, abuse, or
11 eligibility for benefits.

12 (4) The department may, to the extent permitted by federal law, make available to an agency of the state
13 or to any other organization information contained in its files and records pertaining to the eligibility of persons
14 for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income
15 energy assistance, weatherization, or other public assistance."

16

17 **Section 69.** Section 53-25-118, MCA, is amended to read:

18 **"53-25-118. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at
19 a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that
20 reduced adjusted gross income ~~under 15-30-2110(12)~~ on contributions made prior to January 1, 2020.

21 (2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross
22 income, all withdrawals must be allocated between income and contributions in accordance with the principles
23 applicable under section 529A(c)(3) of the Internal Revenue Code, 26 U.S.C. 529A(c)(3). The portion of a
24 recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any,
25 that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions that
26 reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must be
27 treated as first derived from contributions that reduced adjusted gross income, to the extent of those contributions,
28 and then to contributions that did not reduce adjusted gross income.

29 (3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the
30 withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account

1 owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income
 2 tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the
 3 account owner is not a Montana resident at the time of the withdrawal.

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

8 (4) For the purposes of this section, all contributions made to accounts prior to January 1, 2020, by
 9 residents of Montana are presumed to have reduced the contributor's adjusted gross income unless the
 10 contributor can demonstrate that all or a portion of the contributions did not reduce adjusted gross income.
 11 ~~Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount~~
 12 ~~of deductible contributions made to accounts for each designated beneficiary and the social security number of~~
 13 ~~each designated beneficiary.~~

14 (5) The department of revenue shall use all means available for the administration and enforcement of
 15 income tax laws in the administration and enforcement of this section.

16 (6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a
 17 nonqualified withdrawal."
 18

19 **Section 70.** Section 67-11-303, MCA, is amended to read:

20 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
 21 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms that
 22 it may determine, payable out of any revenue of the authority, including revenue derived from:

- 23 (a) an airport or air navigation facility or facilities;
- 24 (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;
- 25 (c) grants or contributions from the federal government; or
- 26 (d) other sources.

27 (2) The bonds may be issued by resolution of the authority, without an election and without any limitation
 28 of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become
 29 due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or
 30 sources is pledged exceeds the amount of revenue to be received in that year as estimated in the resolution

1 authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose,
2 maintain, and collect rates, charges, rentals, and taxes, if any is pledged, sufficient to make the revenue from the
3 pledged source in the year at least equal to the amount of principal and interest due in that year.

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

8 (4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared
9 to be issued for an essential public and governmental purpose by a political subdivision within the meaning of
10 15-30-2110(2)(a).

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

16 (6) Subject to the conditions stated in this subsection, the governing body of any municipality having a
17 population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by
18 an authority in which the municipality is included, may by resolution covenant that in the event that at any time
19 all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest
20 then due, it shall, subject to 15-10-420, levy a general tax upon all of the taxable property in the municipality for
21 the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to
22 occur within 1 year for the payment of principal and interest due on the bonds, it shall, subject to 15-10-420, levy
23 a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the taxes are
24 limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that more than
25 one municipality having a population in excess of 10,000 is included in an authority issuing bonds pursuant to
26 this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in anticipation of,
27 a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may determine. The
28 resolution must state the principal amount and purpose of the bonds and the substance of the covenant
29 respecting deficiencies. A resolution may not be effective until the question of its approval has been submitted
30 to the qualified electors of the municipality at a special election called for that purpose by the governing body of

1 the municipality and a majority of the electors voting on the question have voted in favor of the resolution. The
 2 special election must be held in conjunction with a regular or primary election. The notice and conduct of the
 3 election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7,
 4 chapter 7, part 42, for an election called by cities and towns and as provided for county general obligation bonds
 5 in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors voting on the issue vote
 6 against approval of the resolution, the municipality may not make the covenant or levy a tax for the payment of
 7 deficiencies pursuant to this section, but the municipality or authority may issue bonds under this chapter payable
 8 solely from the sources referred to in subsection (1)."

9
 10 **NEW SECTION. Section 71. Repealer.** The following sections of the Montana Code Annotated are

11 repealed:

- 12 2-18-1312. Tax exemption.
- 13 15-30-2116. Additional exemption for dependent child with disability -- physician's verification.
- 14 15-30-2131. Deductions allowed in computing net income.
- 15 15-30-2133. Nondeductible items in computing net income.
- 16 15-30-2141. Independent liability fund -- deductibility.
- 17 15-30-2142. Income tax deduction for contribution to veterans' programs.
- 18 15-30-2143. Deduction for contributions to child abuse and neglect prevention program.
- 19 15-30-2144. Deposit of child abuse and neglect prevention program deductible contributions.
- 20 15-30-2301. Capital gains credit.
- 21 15-30-2319. Credit for energy-conserving investments.
- 22 15-30-2334. Credit for providing supplemental funding to public schools -- innovative educational program.
- 23 15-30-2335. Qualified education individual income tax credit for contributions to student scholarship
 24 organization.
- 25 15-30-2342. Credit for preservation of historic buildings.
- 26 15-30-2356. Empowerment zone new employees -- tax credit.
- 27 15-30-2358. Qualified research tax credit.
- 28 15-30-2364. Adoption tax credit -- limitations.
- 29 15-30-2365. Credit for day-care facilities.
- 30 15-30-2366. Credit for expense of caring for certain elderly family members.

- 1 15-30-2367. Tax credit for providing disability insurance for employees.
- 2 15-30-2373. Credit for dependent care assistance and referral services.
- 3 15-30-2381. Tax credit for providing emergency lodging.
- 4 15-30-3103. (Temporary) Requirements for student scholarship organizations.
- 5 15-30-3104. (Temporary) Tuition payment limitation.
- 6 15-30-3105. (Temporary) Reporting requirements for student scholarship organizations.
- 7 15-30-3106. (Temporary) Student scholarship organizations -- listing on website.
- 8 15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations.
- 9 15-30-3112. (Temporary) Report to revenue and transportation interim committee -- student scholarship
10 organizations.
- 11 15-30-3113. (Temporary) Review determination -- termination -- confidentiality.
- 12 15-31-133. Credit for day-care facilities.
- 13 15-31-159. (Temporary) Qualified education corporate credit for contributions to student scholarship
14 organization.
- 15 15-31-173. Tax credit for hiring registered apprentices or veteran apprentices.
- 16 15-32-109. Credit for energy-conserving expenditures.
- 17 15-32-201. Amount of credit -- to whom available.
- 18 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 19 15-32-203. Department to make rules.
- 20 15-62-207. Deductions for contributions.
- 21 53-25-117. Deductions for contributions.
- 22 80-12-211. Income tax deduction for land sale to beginning farmers.

23

24 **NEW SECTION. Section 72. Transition -- carryover of credits.** A credit allowed a taxpayer prior to
25 January 1, 2020, under the provisions of law in effect prior to January 1, 2020, that may be carried forward for
26 a specified number of years is not impaired by [this act], and a taxpayer may claim the credit for the taxes
27 specified for the period established in the section at the time the credit was first allowed. This section applies to
28 all tax credits that are removed or repealed by [this act], including but not limited to 7-21-3710, 15-30-2342,
29 15-30-2356, 15-30-2358, 15-30-2364, 15-30-2373, 15-32-115, 15-32-201, 15-32-202, 15-32-404, 15-32-503,
30 15-32-505, 15-32-506, 15-32-508, 15-32-509, 15-32-701, 15-32-702, 15-32-703, and 15-50-207.

1

2 **NEW SECTION. Section 73. Directions to code commissioner.** (1) Sections 15-30-2320, 15-30-2326,
3 15-30-2327, 15-30-2357, 15-30-2380, 15-30-3101, 15-30-3103, 15-30-3104, 15-30-3105, 15-30-3106,
4 15-30-3110, 15-30-3111, 15-30-3112, and 15-30-3113 are intended to be renumbered and codified as an integral
5 part of Title 15, chapter 31.

6 (2) The code commissioner is instructed to change all internal references within and to the renumbered
7 sections in the Montana Code Annotated, including within sections enacted or amended by the 2019 legislature,
8 to reflect the new section numbers assigned pursuant to this section.

9

10 **NEW SECTION. Section 74. Effective date.** [This act] is effective January 1, 2020.

11

12 **NEW SECTION. Section 75. Applicability.** [This act] applies to income tax years beginning after
13 December 31, 2019.

14

- END -