

SENATE BILL NO. 121

INTRODUCED BY S. MALEK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING DISPOSABLE CARRY-OUT BAG LAWS;
5 ESTABLISHING REQUIREMENTS FOR DISPOSABLE CARRY-OUT BAGS; LEVYING A FEE COLLECTED BY
6 RETAIL ESTABLISHMENTS FOR USE OF DISPOSABLE CARRY-OUT BAGS; ALLOWING FOR A
7 CARRY-OUT BAG CREDIT PROGRAM; ALLOWING CERTAIN FEES RETAINED BY A RETAIL
8 ESTABLISHMENT TO BE TAX-EXEMPT; REQUIRING THE DEPARTMENT OF REVENUE TO COLLECT THE
9 FEE; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; ESTABLISHING A
10 RECYCLING AND WASTE REDUCTION GRANT PROGRAM; REQUIRING THE DEPARTMENT OF
11 ENVIRONMENTAL QUALITY TO ESTABLISH RULES FOR ADMINISTERING THE GRANT PROGRAM;
12 ESTABLISHING GRANT CRITERIA; ESTABLISHING THE RECYCLING AND WASTE REDUCTION ACCOUNT;
13 AMENDING SECTIONS 15-30-2110 AND 15-31-114, MCA; AND PROVIDING AN EFFECTIVE DATE AND A
14 RETROACTIVE APPLICABILITY DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], unless the context requires
19 otherwise, the following definitions apply:

20 (1) (a) "Disposable carry-out bag" means a plastic or kraft paper bag provided to a consumer for single
21 use at the point of sale to carry purchases.

22 (b) The term does not include:

23 (i) bags used by consumers inside stores to:

24 (A) package bulk items, including but not limited to fruit, vegetables, nuts, grains, candy, or small
25 hardware items;

26 (B) contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

27 (C) contain or wrap flowers, potted plants, or other items for which dampness may be a problem; or

28 (D) contain unwrapped prepared foods or bakery goods;

29 (ii) bags provided by pharmacists to contain prescription drugs;

30 (iii) newspaper bags, door-hanger bags, laundry dry-cleaning bags, or bags sold in packages containing

1 multiple bags intended for use as garbage, pet waste, or yard waste bags;

2 (iv) paper carryout bags that retail establishments, including restaurants, provide to customers to take
3 food away from the retail establishment; or

4 (v) reusable carry-out bags.

5 (2) "Retail establishment" means an establishment that sells goods or services to the ultimate user or
6 consumer for personal use rather than business use.

7 (3) "Reusable carry-out bag" means a bag with handles that is specifically designed and manufactured
8 for reusing multiple times and is made of cloth, fiber, other machine-washable fabric, or durable plastic that is at
9 least 2.25 millimeters thick.

10
11 **NEW SECTION. Section 2. Requirements for disposable carry-out bags.** (1) Disposable carry-out

12 bags made of paper must:

13 (a) be 100% recyclable;

14 (b) contain a minimum of 40% postconsumer recycled content; and

15 (c) display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible
16 manner on the bag exterior.

17 (2) Disposable carry-out bags made of plastic must:

18 (a) be 100% recyclable;

19 (b) be made of high-density polyethylene film marked with the SP resin identification code 2 or
20 low-density polyethylene film marked with the SP resin identification code 4; and

21 (c) display the phrase "Please Recycle This Bag", or a substantially similar phrase, in a highly visible
22 manner on the bag exterior.

23
24 **NEW SECTION. Section 3. Disposable carry-out bag fee -- carry-out bag credit program.** (1) A

25 consumer making a purchase from a retail establishment shall pay at the time of purchase a fee of 4 cents for
26 each disposable carry-out bag.

27 (2) (a) A retail establishment may not advertise to the public or to a customer directly or indirectly that
28 the reimbursement of the fee or any part of the fee to be collected by the retail establishment will be assumed
29 or absorbed by the retail establishment or otherwise refunded to the customer.

30 (b) All retail establishments must indicate on the consumer transaction receipt the number of disposable

1 carry-out bags provided and the total amount of the fee charged.

2 (3) (a) If a retail establishment offers a carry-out bag credit program, the retail establishment may retain
3 3 cents of each 4-cent fee collected.

4 (b) The fees retained by the retail establishment under this subsection (3) are not considered revenue
5 and are tax-exempt as provided in 15-30-2110 or 15-31-114.

6 (4) Fees collected by a retail establishment that are not retained as provided in subsection (3) must be
7 paid to the department of revenue in accordance with [section 4].

8 (5) (a) A retail establishment may offer a carry-out bag credit program. The program must credit
9 consumers no less than 2 cents for each reusable carry-out bag provided by consumers for packaging their
10 purchases.

11 (b) A retail establishment shall prominently display the program at each checkout register and provide
12 a receipt that reflects the total credit.

13

14 **NEW SECTION. Section 4. Collection of disposable carry-out bag fee -- department of revenue**

15 **-- rulemaking.** (1) A retail establishment shall keep records, make returns, and comply with rules adopted by the
16 department of revenue with respect to the disposable carry-out bag fee collected pursuant to [section 3]. At any
17 time that the department of revenue considers necessary, the department may require the retail establishment
18 to make returns, render statements, or keep records sufficient to show whether there is liability for the fee.

19 (2) (a) A retail establishment collecting the fee shall file a return with the department of revenue on or
20 before the last day of the month following the end of each calendar quarter, reporting the amount of fee due.
21 Returns are subject to the penalty for false swearing provided as in 45-7-202.

22 (b) When a return of the fee is required, the retail establishment shall pay the fee due to the department
23 of revenue at the time established in subsection (2)(a) for filing the return.

24 (c) A retail establishment offering a carry-out bag credit program must keep records and report the
25 amount retained by the establishment in accordance with rules adopted by the department of revenue.

26 (3) (a) Unless the context requires otherwise, the provisions of Title 15 referring to the audit and
27 examination of reports and returns, determination of deficiency assessments, claims for refunds, penalties,
28 interest, jeopardy assessments, warrants, conferences, appeals to the department of revenue, appeals to the
29 state tax appeal board, and procedures relating to those provisions apply to [sections 1 through 3] and this
30 section as if the fee were a tax imposed on or measured by net income.

1 (b) Any amount collected and required to be remitted to the department of revenue is considered a tax
2 on the retail establishment required to collect it, and the retail establishment is considered a taxpayer.

3 (4) All money received by the department of revenue pursuant to [sections 1 through 3] and this section
4 must be paid to the state treasurer for deposit in the recycling and waste reduction account established in [section
5 5].

6 (5) The department may adopt rules necessary to implement the requirements of [sections 1 through 3]
7 and this section.

8
9 **NEW SECTION. Section 5. Recycling and waste reduction account -- use of account.** (1) There
10 is an account in the state special revenue fund established in 17-2-102 to be known as the recycling and waste
11 reduction account.

- 12 (2) There must be deposited in the account:
 - 13 (a) fees collected pursuant to [sections 1 through 4];
 - 14 (b) any gifts or donations received for the purposes of [sections 1 through 4]; and
 - 15 (c) interest or other income earned on the money in the account.
- 16 (3) The money in the account may be used only as provided in [section 6].

17
18 **NEW SECTION. Section 6. Recycling and waste reduction grants -- eligibility.** (1) The department
19 of environmental quality shall establish a recycling and waste reduction grant program. The department shall:

- 20 (a) allocate money collected pursuant to [sections 1 through 5] in the form of grants to local governments,
21 state agencies, community organizations, schools, nonprofit and for-profit entities, and any other entity or
22 collaboration of entities engaged in waste reduction or recycling efforts;
- 23 (b) allocate money collected pursuant to [sections 1 through 5] for activities that promote statewide
24 recycling opportunities;
- 25 (c) develop priorities for awarding grants, pursuant to subsection (2); and
- 26 (d) award grants at least annually through a competitive process.

27 (2) The department shall give priority to applications from retail establishments collecting the disposable
28 carry-out bag fee provided for in [sections 1 through 5] and to joint applications from retail establishments
29 collecting the fee provided for in [sections 1 through 5] and other entities for projects that:

- 30 (a) expand the recycling of household hazardous waste, electronic waste, or other special wastes;



- 1 (b) promote local waste reduction and recycling efforts; or
- 2 (c) educate local citizens and businesses about waste reduction and recycling.
- 3 (3) Grants may be used to:
- 4 (a) purchase equipment used in the collection or processing of materials for waste reduction or recycling
- 5 by nonprofit organizations, businesses or industries, state or local governments, or a combination of these
- 6 entities;
- 7 (b) promote the expansion of waste reduction and recycling businesses in Montana;
- 8 (c) research and demonstrate how waste reduction and recycling can be applied to Montana markets;
- 9 (d) assist in market development activities that develop local uses for recycled materials or increase
- 10 consumer acceptance of recycled goods and business use of used materials; or
- 11 (e) conduct educational activities, including workshops, conferences, and general consumer education
- 12 about the benefits of recycling.
- 13 (4) By September 1 of each year preceding a regular legislative session, the department shall provide
- 14 a written report of its activities pursuant to this section to the environmental quality council established in
- 15 5-16-101.

16
 17 **NEW SECTION. Section 7. Rulemaking authority.** The department of environmental quality shall
 18 adopt rules to:

- 19 (1) provide for grant application procedures; and
- 20 (2) develop procedures for awarding grants and determining grant awards pursuant to the criteria
- 21 provided in [section 6].

22
 23 **Section 8.** Section 15-30-2110, MCA, is amended to read:

24 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (14), adjusted gross income is the
 25 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
 26 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 any other interest income that is exempt
18 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; and

14 (u) the amount of revenue retained by a retail establishment that offers a carry-out bag credit program
15 in accordance with [section 3].

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

20 (4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's
21 business deductions:

22 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
23 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
24 salaries paid regardless of the credit taken; or

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

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

1 small business corporation.

2 (5) Married taxpayers filing a joint federal return who are required to include part of their social security
3 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal
4 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement
5 benefits when they file separate Montana income tax returns. The federal base must be split equally on the
6 Montana return.

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

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

17 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a
18 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
19 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
20 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

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

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

1 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
2 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
3 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
4 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
5 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
6 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
7 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
8 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
9 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
10 or expected to last at least 12 months.

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

21 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in
22 15-62-208.

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

1 if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with
2 respect to withdrawals of contributions that reduced adjusted gross income.

3 (b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in
4 53-25-118.

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

7 (i) is a health care professional licensed in Montana as provided in Title 37;

8 (ii) is serving a significant portion of a designated geographic area, special population, or facility
9 population in a federally designated health professional shortage area, a medically underserved area or
10 population, or a federal nursing shortage county as determined by the secretary of health and human services
11 or by the governor;

12 (iii) has had a student loan incurred as a result of health-related education; and

13 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
14 program described in subsection (13)(b) as an incentive to practice in Montana.

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

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

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

24 (a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax
25 year;

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

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

30 (16) By November 1 of each year, the department shall multiply the amount of pension and annuity

1 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
 2 by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective
 3 for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c).
 4 (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates
 5 on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(s) terminates December 31, 2023--sec.
 6 33, Ch. 457, L. 2015; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

7

8 **Section 9.** Section 15-31-114, MCA, is amended to read:

9 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
 10 deductions are allowed from the gross income received by the corporation within the year from all sources:

11 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
 12 and operation of its business and properties, including reasonable allowance for salaries for personal services
 13 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
 14 be made as a condition to the continued use or possession of property to which the corporation has not taken
 15 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the
 16 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
 17 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

18 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
 19 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the
 20 trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue
 21 Code in effect with respect to the taxable year. All elections for depreciation must be the same as the elections
 22 made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings,
 23 permanent improvements, or betterments made to increase the value of any property or estate, and a deduction
 24 may not be made for any amount of expense of restoring property or making good the exhaustion of property for
 25 which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant
 26 as defined in 33-25-105(15).

27 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
 28 according to the provisions of 15-31-119.

29 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
 30 for depletion and for depreciation of improvements. The reasonable allowance must be determined according

1 to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal
2 Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling
3 expenses for corporate income tax purposes must be the same as the elections made for federal income tax
4 purposes.

5 (d) the amount of interest paid within the year on its indebtedness incurred in the operation of the
6 business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness
7 created for the purchase, maintenance, or improvement of property or for the conduct of business unless the
8 income from the property or business would be taxable under this part.

9 (e) (i) taxes paid within the year, except the following:

10 (A) taxes imposed by this part;

11 (B) taxes assessed against local benefits of a kind tending to increase the value of the property
12 assessed;

13 (C) taxes on or according to or measured by net income or profits imposed by authority of the
14 government of the United States;

15 (D) taxes imposed by any other state or country upon or measured by net income or profits.

16 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school
17 district, or municipality of this state.

18 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

19 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify
20 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

21 (ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion
22 of contributions made under this subsection.

23 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
24 annuity is a qualified charitable gift annuity as defined in 33-20-701.

25 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
26 81-7-118, or 81-7-201;

27 (i) the amount of revenue retained by a retail establishment that offers a carry-out bag credit program in
28 accordance with [section 3].

29 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
30 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological

1 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
2 postsecondary school located in Montana if:

3 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
4 substantially completed;

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

6 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
7 property and representing that the use and disposition of the property will be in accordance with the provisions
8 of subsection (2)(b).

9 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
10 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
11 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
12 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
13 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
14 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
15 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
16 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A
17 regulated investment company is not allowed a deduction for dividends received as defined in sections 243
18 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
19 amended or renumbered."

20
21 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 7] are intended to be
22 codified as an integral part of Title 75, chapter 10, and the provisions of Title 75, chapter 10, apply to [sections
23 1 through 7].

24
25 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2019.

26
27 **NEW SECTION. Section 12. Retroactive applicability.** The tax exemption provided in [section 3(3)(b)]
28 applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2018.

29 - END -