

1 SENATE BILL NO. 399

2 INTRODUCED BY G. HERTZ

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION OF INCOME, INCLUDING
5 THE CORPORATE INCOME TAX; REQUIRING THE TAXATION OF INDIVIDUALS, PARTNERSHIPS, AND
6 SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND ESTATES, TO RELATE THE STATE
7 INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME; PROVIDING ADJUSTMENTS TO FEDERAL
8 TAXABLE INCOME TO INCLUDE CERTAIN INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE
9 INCOME TO EXCLUDE CERTAIN INCOME; ELIMINATING MOST INDIVIDUAL INCOME TAX DEDUCTIONS;
10 ELIMINATING CERTAIN INDIVIDUAL INCOME TAX CREDITS; REVISING CERTAIN INDIVIDUAL INCOME
11 TAX CREDITS; ELIMINATING CERTAIN CORPORATE INCOME TAX DEDUCTIONS AND CREDITS;
12 REVISING INDIVIDUAL INCOME TAX RATES; PROVIDING A TRANSITION FOR CREDITS THAT ARE
13 SUBJECT TO A CARRYFORWARD; PROVIDING A TRANSITION FOR DIFFERENCES IN FEDERAL AND
14 MONTANA INCOME TAX LAWS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-
15 1312, 7-14-1133, 7-14-1636, 7-34-2416, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104, 15-30-2113, 15-30-
16 2151, 15-30-2153, 15-30-2303, 15-30-2328, 15-30-2329, 15-30-2393, 15-30-2501, 15-30-2512, 15-30-2602,
17 15-30-2605, 15-30-2606, 15-30-2618, 15-30-3003, 15-30-3004, 15-30-3005, 15-30-3312, 15-31-162, 15-31-
18 1007, 15-32-104, 15-32-106, 15-61-202, 15-61-203, 15-62-103, 15-62-201, 15-62-206, 15-62-207, 15-62-208,
19 15-63-202, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 20-4-503, 20-25-902, 33-27-
20 101, 33-27-102, 33-27-103, 37-4-104, 50-51-114, 53-2-211, 53-25-117, 53-25-118, 67-11-303, 70-9-803, 75-2-
21 103, 75-5-103, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 7-21-3701, 7-21-3702, 7-21-3703, 7-
22 21-3704, 7-21-3710, 7-21-3715, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2115, 15-30-2116, 15-30-2117,
23 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144, 15-30-
24 2152, 15-30-2301, 15-30-2319, 15-30-2320, 15-30-2326, 15-30-2342, 15-30-2356, 15-30-2364, 15-30-2366,
25 15-30-2373, 15-30-2381, 15-31-131, 15-31-132, 15-31-134, 15-31-135, 15-31-136, 15-31-137, 15-31-151, 15-
26 31-163, 15-31-171, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-401, 15-32-402, 15-32-
27 404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-505, 15-32-506,
28 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-601, 15-32-602, 15-32-603, 15-32-604, 15-32-609, 15-32-

1 610, 15-32-611, 15-32-701, 15-32-702, 15-32-703, AND 33-2-724, MCA; AND PROVIDING A DELAYED
2 EFFECTIVE DATE AND AN APPLICABILITY DATE.”

3

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

5

6 **NEW SECTION. Section 1. Adjustments to federal taxable income to determine Montana**

7 **taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted
8 from federal taxable income to determine Montana taxable income.

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

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

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

15 (c) depreciation or amortization taken on a title plant as defined in 33-25-105;

16 (d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the
17 amount recovered reduced the taxpayer's Montana income tax in the year deducted;

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

20 (f) a deduction for an income distribution from an estate or trust to a beneficiary that was included in
21 the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal
22 Revenue Code, 26 U.S.C. 651 and 661;

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

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

28 (i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A of

1 the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction
2 claimed; and

3 (j) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal
4 Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not
5 to exceed the amount required to reduce the federal itemized amount computed under section 161 of the
6 Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under
7 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

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

10 (a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with
11 sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the
12 additions and subtractions in subsections (2) and (3)(b) through (3)(l);

13 (b) if exempt from taxation by Montana under federal law:

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

16 (ii) railroad retirement benefits;

17 (c) (i) salary received from the armed forces by residents of Montana who are serving on active duty
18 in the regular armed forces and who entered into active duty from Montana;

19 (ii) the salary received by residents of Montana for active duty in the national guard. For the purposes
20 of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national guard
21 member pursuant to:

22 (A) Title 10, U.S.C.; or

23 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency
24 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland
25 defense activity or contingency operation.

26 (iii) the amount received pursuant to 10-1-1114 or from the federal government by a service member,
27 as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;

28 (iv) the amount received by a beneficiary pursuant to 10-1-1201; and

1 (v) all payments made under the World War I bonus law, the Korean bonus law, and the veterans'
2 bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,
3 Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the
4 filing of an amended return and a verified claim for refund on forms prescribed by the department in the same
5 manner as other income tax refund claims are paid.

6 (d) interest and other income related to contributions that were made prior to January 1, 2022, that
7 are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for
8 payment of eligible medical expenses or for the long-term care of the employee or account holder or a
9 dependent of the employee or account holder;

10 (e) contributions or earnings withdrawn from a family education savings account provided for in Title
11 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in
12 section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education
13 expenses, as defined in 15-62-103, of a designated beneficiary;

14 (f) interest and other income related to contributions that were made prior to January 1, 2022, that are
15 retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for
16 payment of eligible costs for the first-time purchase of a single-family residence;

17 (g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

18 (h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant
19 to 15-30-3104;

20 (i) a payment received by a private landowner for providing public access to public land pursuant to
21 Title 76, chapter 17, part 1;

22 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or any
23 other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not
24 previously allowed as a deduction for Montana income tax purposes;

25 (k) 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; and

27 (l) an amount equal to 30% of net-long term capital gains, as defined in section 1222 of the Internal
28 Revenue Code, 26 U.S.C. 1222, if and to the extent such gain is taken into account in computing federal

1 taxable income.

2 (4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's business
3 deductions:

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

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

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

14 (5) (a) An individual who contributes to one or more accounts established under the Montana family
15 education savings program or to a qualified tuition program established and maintained by another state as
16 provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce
17 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each
18 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.
19 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each
20 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions
21 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or
22 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not
23 apply with respect to withdrawals of contributions that reduced federal taxable income.

24 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for in
25 15-62-208.

26 (6) (a) An individual who contributes to one or more accounts established under the Montana
27 achieving a better life experience program or to a qualified program established and maintained by another
28 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of

1 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions
 2 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as
 3 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with
 4 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or
 5 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
 6 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

7 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-
 8 25-118.

9 (7) By November 1 of each year, the department shall multiply the subtraction from federal taxable
 10 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for
 11 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must
 12 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

13

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

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

19

20 **Section 3.** Section 7-14-1133, MCA, is amended to read:

21 **"7-14-1133. Bonds and obligations.** (1) Except for providing financial support to a private
 22 development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to
 23 advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow
 24 money for any of its corporate purposes and issue bonds, including refunding bonds, for any of its corporate
 25 purposes. The bonds may be in the form and upon terms as it determines, payable out of any revenue of the
 26 authority, including revenue derived from:

27 (a) any port or transportation and storage facility;

28 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

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

2 (d) other sources.

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

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

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

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

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

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

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

16 **Section 4.** Section 7-14-1636, MCA, is amended to read:

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

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

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

1 impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to
 2 make the revenue from the pledged source in the year at least equal to the amount of principal and interest due
 3 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 Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from
 6 revenue of the authority and must state on their face the applicable limitations or restrictions regarding the
 7 source from which the principal and interest are payable.

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

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

15

16 **Section 5.** Section 7-34-2416, MCA, is amended to read:

17 **"7-34-2416. Tax-exempt status of bonds.** Bonds issued by a county pursuant to the provisions of 7-
 18 34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental
 19 purpose by a political subdivision ~~within the meaning of 15-30-2110(2)(a).~~"
 20

20

21 **Section 6.** Section 15-30-2101, MCA, is amended to read:

22 **"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context,
 23 the following definitions apply:

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

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

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

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

3 ~~(2)~~(1) "Consumer price index" means the consumer price index, United States city average, for all
4 items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor
5 statistics of the U.S. department of labor.

6 ~~(3)~~(2) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

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

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

10 (c) that is not a disregarded entity.

11 ~~(4)~~(3) "Department" means the department of revenue.

12 ~~(5)~~(4) "Disregarded entity" means a business entity:

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

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

18 ~~(6)~~(5) "Dividend" means:

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

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

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

24 (7) "Federal taxable income", when referring to an individual, means taxable income as defined and
25 described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or estate,
26 means taxable income as defined and described in sections 641 through 692 of the Internal Revenue Code, 26
27 U.S.C. 641 through 692.

28 ~~(7)~~(8) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any

1 person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

2 ~~(8)(9)~~ "Foreign C. corporation" means a corporation that is not engaged in or doing business in
3 Montana, as provided in 15-31-101.

4 ~~(9)(10)~~ — "Foreign government" means any jurisdiction other than the one embraced within the United
5 States, its territories, and its possessions.

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

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

12 ~~(14)(12)~~ "Inflation factor" means a number determined for each tax year by dividing the consumer price
13 index for June of the previous tax year by the consumer price index for June ~~2015~~ 2022.

14 ~~(12)(13)~~ "Information agents" includes all individuals and entities acting in whatever capacity, including
15 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
16 officers and employees of the state or of any municipal corporation or political subdivision of the state, having
17 the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
18 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
19 and income with respect to which any person or fiduciary is taxable under this chapter.

20 ~~(13)(14)~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it
21 may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean
22 those provisions as they may be otherwise labeled or further amended.

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

24 ~~(14)(16)~~ "Knowingly" is as defined in 45-2-101.

25 ~~(15)(17)~~ "Limited liability company" means a limited liability company, domestic limited liability
26 company, or a foreign limited liability company as defined in 35-8-102.

27 ~~(16)(18)~~ "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

28 ~~(17)(19)~~ "Lottery winnings" means income paid either in lump sum or in periodic payments to:

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

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

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

5 ~~(18)~~(21) (a) "Montana source income" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership
 24 doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,
 25 multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the
 26 apportionment factor as provided in this subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) does not fairly and equitably
 27 represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for,
 28 or the department may require with respect to any and all of the partnership interest, the employment of another

1 method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection
 2 ~~(18)(a)(xviii)~~ (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align
 3 those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

4 (b) The term does not include:

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

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

14 (22) "Montana taxable income" means federal taxable income as determined for federal income tax
 15 purposes and adjusted as provided in [section 1].

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

18 ~~(20)(23)~~ (23) "Nonresident" means a natural person who is not a resident.

19 ~~(21)(24) "Paid", for the purposes of the deductions and credits under this chapter, means paid or~~
 20 ~~accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed~~
 21 ~~according to the method of accounting upon the basis of which the~~ used to compute federal taxable income is
 22 ~~computed under this chapter.~~

23 ~~(22)(25)~~ (25) "Partner" means a member of a partnership or a manager or member of any other entity, if
 24 treated as a partner for federal income tax purposes.

25 ~~(23)(26)~~ (26) "Partnership" means a general or limited partnership, limited liability partnership, limited
 26 liability company, or other entity, if treated as a partnership for federal income tax purposes.

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

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

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

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

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

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

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

15 ~~(26)~~(29) "Purposely" is as defined in 45-2-101.

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

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

24 ~~(29)~~(32) "S. corporation" means an incorporated entity for which a valid election under section 1362 of
 25 the Internal Revenue Code, ~~(26 U.S.C. 1362),~~ is in effect.

26 ~~(30)~~(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders
 27 in proportion to their previous holdings.

28 (34) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the

1 Internal Revenue Code, 26 U.S.C. 2(a).

2 ~~(34)~~(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

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

5 ~~(33)~~(36) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or
6 other obligation imposed by this chapter and unless otherwise specifically provided does not include a C.
7 corporation."

8

9 **Section 7.** Section 15-30-2102, MCA, is amended to read:

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

17

18 **Section 8.** Section 15-30-2103, MCA, is amended to read:

19 **"15-30-2103. Rate of tax.** (1) ~~There~~ Except as provided in subsection (2), there must be levied,
20 collected, and paid for each tax year upon the Montana taxable income of each taxpayer subject to this tax,
21 after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of
22 taxable income as follows:

23 ~~(a) on the first \$2,900 of taxable income or any part of that income, 1%;~~

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

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

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

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

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

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

2 (a) for every married individual who files a joint return and for every surviving spouse:

3 (i) on the first \$41,000 of Montana taxable income or any part of that income, 4.7%;

4 (ii) on any Montana taxable income in excess of \$41,000 or any part of that income, 6.5%;

5 (b) for every head of household:

6 (i) on the first \$30,750 of Montana taxable income or any part of that income, 4.7%;

7 (ii) on any Montana taxable income in excess of \$30,750 or any part of that income, 6.5%;

8 (c) for every individual other than a surviving spouse or head of household who is not a married
9 individual:

10 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

11 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.5%;

12 (d) for every married individual who does not make a joint return and for every estate or trust not
13 exempt from taxation under the Internal Revenue Code:

14 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

15 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.5%.

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

20
21 **Section 9.** Section 15-30-2104, MCA, is amended to read:

22 "**15-30-2104. Tax on nonresident.** (1) (a) A tax is imposed upon each nonresident individual, estate,
23 or trust equal to the tax computed under 15-30-2103 as if the nonresident individual, estate, or trust were a
24 resident during the entire tax year, multiplied by the ratio of Montana source income to total income from all
25 sources.

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

1 of income, gain, loss, deduction, expense, or credit.

2 (2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, each nonresident
3 taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not
4 own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales
5 made in Montana during the taxable year does not exceed \$100,000 may elect to pay an income tax of 1/2 of
6 1% of the dollar volume of gross sales made in Montana during the taxable year. The tax is in lieu of the tax
7 imposed under 15-30-2103 and subsection (1)(a) of this section. The gross volume of sales made in Montana
8 during the tax year must be determined according to the provisions of Article IV, sections 16 and 17, of the
9 Multistate Tax Compact."

10

11 **Section 10.** Section 15-30-2113, MCA, is amended to read:

12 "**15-30-2113. Determination of status -- effect of marital status elections.** For purposes of this
13 chapter:

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

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

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

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

25

26 **Section 11.** Section 15-30-2151, MCA, is amended to read:

27 "**15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.** (1) A tax ~~must be~~ is imposed
28 ~~upon either~~ on the fiduciaries or the beneficiaries of estates and trusts ~~as provided in this section, except to the~~

1 extent that estates and trusts must be held for educational, charitable, or religious purposes. The tax must be
 2 levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust,
 3 including:

4 (a) ~~income received by estates of deceased persons during the period of administration or settlement~~
 5 ~~of the estate;~~

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

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

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

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

20 (3) ~~In cases under subsections (1)(a), (1)(b), and (1)(c), the~~ The tax must be imposed ~~upon~~ on the
 21 fiduciary of the estate or trust with respect to the net income of the estate or trust and must be paid by the
 22 fiduciary. ~~If the taxpayer's net income for the tax year of the estate or trust is computed upon the basis of a~~
 23 ~~period different from that upon the basis of which the net income of the estate or trust is computed, then the~~
 24 ~~taxpayer's distributive share of the net income of the estate or trust for any accounting period of the estate or~~
 25 ~~trust ending within the fiscal or calendar year must be computed upon the basis on which the beneficiary's net~~
 26 ~~income is computed. In those cases, a beneficiary who is not a resident must be taxable with respect to the~~
 27 ~~beneficiary's income derived through the estate or trust only to the extent provided in 15-30-2111 for individuals~~
 28 ~~other than residents.~~

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

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

13
 14 **Section 12.** Section 15-30-2153, MCA, is amended to read:

15 **"15-30-2153. Determination of tax of estates and trusts.** The amount of tax ~~must be~~ is determined
 16 from Montana taxable income of an estate or trust ~~in the same manner as the tax on taxable income of~~
 17 ~~individuals, as adjusted in [section 1]~~ by applying the rates contained in 15-30-2103. Credits allowed to
 18 individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

19
 20 **Section 13.** Section 15-30-2303, MCA, is amended to read:

21 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
 22 must be reviewed during the biennium commencing July 1, 2019:

- 23 (a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;
 24 (b) the credit for contractor's gross receipts provided for in 15-50-207;
 25 (c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127; and
 26 ~~(d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;~~
 27 ~~(e) the credit for energy conserving expenditures provided for in 15-30-2319 and 15-32-109; and~~
 28 ~~(f)~~(d) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

1 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

2 ~~(a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32,~~
3 ~~part 4;~~

4 ~~(b) the credit for qualified elderly care expenses provided for in 15-30-2366;~~

5 ~~(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-~~
6 ~~31-131;~~

7 ~~(d) the credit for contributions to a university or college foundation or endowment provided for in 15-~~
8 ~~30-2326, 15-31-135, and 15-31-136;~~

9 ~~(e)(a)~~ the credit for donations to an educational improvement account provided for in 15-30-2334, 15-
10 30-3110, and 15-31-158; and

11 ~~(f)(b)~~ the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-
12 3111, and 15-31-159.

13 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

14 ~~(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-~~
15 ~~432;~~

16 ~~(b) the credit for installation of a geothermal system provided for in 15-32-115;~~

17 ~~(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,~~
18 ~~chapter 32, part 6;~~

19 ~~(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-~~
20 ~~437;~~

21 ~~(e)(a)~~ the credit for infrastructure use fees provided for in 17-6-316; and

22 ~~(f)(b)~~ the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
23 2329, 15-31-161, and 15-31-162.

24 (4) ~~The following tax credits~~ credit for unlocking state lands provided for in 15-30-2380 must be
25 reviewed during the biennium commencing July 1, 2025:

26 ~~(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;~~

27 ~~(b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;~~

28 ~~(c) the credit for capital gains provided for in 15-30-2301;~~

1 ~~(d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;~~

2 ~~(e) the credit for an oilseed crush facility provided for in 15-32-701; and~~

3 ~~(f) the credit for unlocking state lands provided for in 15-30-2380.~~

4 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:

5 ~~(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;~~

6 ~~(b) the biodiesel blending and storage credit provided for in 15-32-703;~~

7 ~~(c) the adoption tax credit provided for in 15-30-2364;~~

8 ~~(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;~~

9 ~~(e)~~(a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
10 and 15-31-173;

11 ~~(f)~~(b) the earned income tax credit provided for in 15-30-2318; and

12 ~~(g)~~(c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

13 (6) The revenue interim committee shall review the tax credits scheduled for review in the biennium of
14 the next regular legislative session, including any individual or corporate income tax credits with an expiration or
15 termination date that are not listed in this section, and make recommendations to the legislature about whether
16 to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The
17 revenue interim committee shall review the credits using the following criteria:

18 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that
19 may have been made regardless of the existence of the tax credit;

20 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

21 (c) whether the credit has out-of-state beneficiaries;

22 (d) the timing of costs and benefits of the credit and how long the credit is effective;

23 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
24 elimination outweigh adverse impacts; and

25 (f) the extent to which benefits of the credit affect the larger economy."

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

28 **"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit**

1 -- **deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-
 2 2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable
 3 gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum
 4 credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The
 5 credit allowed under this section may not exceed the taxpayer's income tax liability.

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

9 ~~(3)(2)~~ There is no carryback or carryforward of the credit permitted under this section, and the credit
 10 must be applied to the tax year in which the contribution is made.

11 ~~(4)(3)~~ If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

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

14 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit
 15 allowed in the tax year in which the credit was taken. (Terminates December 31, 2025--secs. 1 through 15, Ch.
 16 254, L. 2019.)"

17

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

19 **"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified**

20 **endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the
 21 credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright
 22 gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the
 23 estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax
 24 purposes. The maximum amount of credit that a beneficiary may claim is \$10,000, ~~subject to the limitation in~~
 25 ~~15-30-2328(2),~~ and the credit must be claimed in the year in which the contribution is made. The credit may not
 26 be carried forward or carried back. (Terminates December 31, 2025--secs. 1 through 15, Ch. 254, L. 2019.)"

27

28 **Section 16.** Section 15-30-2393, MCA, is amended to read:

1 **"15-30-2393. Election to deposit refund to education savings or ABLE account.** Each individual
 2 taxpayer who is required to file an income tax return under Title 15, chapter 30, may elect to directly deposit a
 3 refund from the return to a Montana family education savings program account provided for in Title 15, chapter
 4 62, part 1, a Montana achieving a better life experience program account provided for in Title 53, chapter 25,
 5 part 1, or an account for similar programs established and maintained by another state. In order to make the
 6 election the taxpayer must be eligible to claim an exclusion from ~~adjusted gross~~ Montana taxable income for the
 7 contribution as provided in ~~15-30-2110~~ [section 1]. The department may prescribe additional forms and require
 8 the taxpayer to provide sufficient information for the proper administration of the deposit requirement."
 9

10 **Section 17.** Section 15-30-2501, MCA, is amended to read:

11 **"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions
 12 apply:

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

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

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

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

23 (iii) an officer of a corporation;

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

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

27 (3) "Employer" means:

28 (a) the person for whom an individual performs or performed any service, of whatever nature, as an

1 employee of the person or, if the person for whom the individual performs or performed the services does not
 2 have control of the payment of wages for the services, the person having control of the payment of wages;

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

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

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

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

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

10 (c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance
 11 purposes, or under Title 39, chapter 71, for workers' compensation purposes.

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

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

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

17 (b) The term does not include:

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

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

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

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

25 ~~(iv)(ii) — any amount paid for agricultural labor."~~

26

27 **Section 18.** Section 15-30-2512, MCA, is amended to read:

28 **"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to

1 tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year,
2 through employer withholding, as provided in 15-30-2502, through payment of estimated tax in four
3 installments, as provided in subsection (2) of this section, or through a combination of employer withholding and
4 estimated tax payments, at least:

- 5 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
- 6 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding
7 tax year was a period of 12 months and if the individual filed a return for the tax year.

8 (b) Payment of estimated taxes under this section is not required if:

9 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than
10 \$500 after reductions for credits and withholding;

11 (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12
12 months, and if the individual was a citizen or resident of the United States throughout that tax year;

13 (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that
14 the department determines to constitute good cause; or

15 (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became
16 disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax
17 year following the tax year in which the individual retired or became disabled.

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

19 (a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
20 January 1, estimated tax payments are due on the following dates:

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

21 (b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
22 a date other than January 1, estimated tax payments are due on the following dates:

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

1 (3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual
 2 payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding
 3 installment must be proportionally changed so that the balance of the required annual payment is paid in equal
 4 installments over the remaining period of time.

5 (b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent
 6 installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes,
 7 the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is
 8 required. For estimated taxes required to be paid beginning with the second installment provided for in
 9 subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth
 10 installments, respectively. For estimated taxes required to be paid beginning with the third installment provided
 11 for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth
 12 installment.

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

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

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

Required Installment	Applicable Percentage
----------------------	-----------------------

First	22.5%
Second	45%
Third	67.5%
Fourth	90%

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

5 (5) (a) Subject to subsection ~~(5)(f)~~ (5)(e), if an estimated tax, an employer withholding tax, or a
 6 combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount
 7 due under this chapter interest on the amount of the underpayment as provided in 15-1-216. The interest is
 8 computed on the amount of the underpayment, as determined in subsection (5)(b), for the period from the time
 9 the payment was due to the date payment was made or to the 15th day of the 4th month of the year following
 10 the tax year in which the payment was to be made, whichever is earlier.

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

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

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

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

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

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

1 ~~(f)~~(e) Interest on the underpayment of estimated tax may not be assessed against a taxpayer if the
2 tax paid by the taxpayer from employer withholding and estimated tax payments satisfies the requirements of
3 subsection (1)(a)(i) or (1)(a)(ii) and the taxpayer has paid approximately equal quarterly installments of
4 estimated taxes.

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

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

10

11 **Section 19.** Section 15-30-2602, MCA, is amended to read:

12 "**15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits --inflation**
13 **adjustment.** (1) ~~(a) For both resident and nonresident taxpayers, each~~ If required to file a federal income tax
14 return pursuant to the Internal Revenue Code, each individual, including each nonresident with Montana source
15 income, or each estate or trust shall file a return ~~married couple not filing a joint return and having a gross~~
16 ~~income for the tax year of more than the maximum standard deduction for that filing status, as determined in~~
17 ~~15-30-2132, is liable for a return to be filed on forms and according to rules that the department may prescribe.~~
18 ~~The gross income amounts referred to in this subsection (1) must be increased by the personal exemption~~
19 ~~allowance determined in 15-30-2114 for each additional personal exemption allowance that the taxpayer is~~
20 ~~entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).~~

21 (b) A taxpayer that is not required to file a federal income tax return shall file a Montana return if the
22 taxpayer has Montana taxable income after taking into consideration the additions and subtractions to federal
23 taxable income in [section 1].

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

1 ~~separate returns after the time for filing the return of either has expired unless the department consents.~~

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

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

13 ~~(5)~~(4) If the department determines that the amount of tax due is greater than the amount of tax
14 computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-
15 30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

16 ~~(6)~~(5) Individual income tax forms distributed by the department for each tax year must contain
17 instructions and tables based on the ~~adjusted base year~~ Montana income tax structure for that tax year."
18

19 **Section 20.** Section 15-30-2605, MCA, is amended to read:

20 **"15-30-2605. Revision of return by department -- statute of limitations -- examination of records**
21 **and persons.** (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect
22 incorrect, it may revise the return.

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

27 (3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be
28 determined by the department within 3 years after the return was filed, regardless of whether the return was

1 filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return
2 due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last
3 day prescribed for filing.

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

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

14

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

16 **"15-30-2606. Tolling of statute of limitations.** The running of the statute of limitations provided for
17 under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of
18 federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has
19 instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1
20 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619, the statute of
21 limitations does not apply until 3 years from the date the federal changes become final or the amended federal
22 return was filed. If the taxpayer omits from federal gross income, as defined and described in section 61 of the
23 Internal Revenue Code, 26 U.S.C. 61, an amount properly includable as federal gross income and the amount
24 is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does
25 not apply for 2 additional years from the time specified in 15-30-2605."

26

27 **Section 22.** Section 15-30-2618, MCA, is amended to read:

28 **"15-30-2618. (Temporary) Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-

1 106, 17-7-111, and subsections ~~(7) through (9)~~ (6) through (8) of this section, in accordance with a proper
 2 judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

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

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

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

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

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

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

15 (3) This section does not prohibit:

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

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

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

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

28 ~~(5)~~(4) Reports and returns must be preserved for at least 3 years and may be preserved until the

1 department orders them to be destroyed.

2 ~~(6)~~(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If
3 the offender is an officer or employee of the state, the offender must be dismissed from office or employment
4 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in
5 the case of a former officer or employee, for 1 year after conviction.

6 ~~(7)~~(6) This section may not be construed to prohibit the department from providing taxpayer return
7 information and information from employers' payroll withholding reports to:

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

10 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
11 and abuse under the workers' compensation program; or

12 (c) the department of public health and human services to verify, as required under 53-6-133, the
13 income reported by applicants for medical assistance.

14 ~~(8)~~(7) The department may permit the commissioner of internal revenue of the United States or the
15 proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of
16 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
17 representative an abstract of the return of income of any individual or supply the officer with information
18 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
19 or return of income of an individual, but the permission may be granted or information furnished only if the
20 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of
21 this state charged with the administration of this chapter.

22 ~~(9)~~(8) On written request to the director or a designee of the director, the department shall furnish:

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

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

1 ~~(e)~~(b) to the department of labor and industry:

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

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

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

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

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

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

19 ~~(h)~~(g) to the department of commerce tax information about a taxpayer whose debt is assigned to the
20 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
21 information provided to the department of commerce must be used for the purposes of preventing and detecting
22 fraud or abuse and determining eligibility for grants or loans.

23 ~~(i)~~(h) to the superintendent of public instruction information required under 20-9-905. (Terminates
24 June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019; subsection ~~(9)(i)~~ ~~(8)(h)~~ terminates
25 December 31, 2023--sec. 33, Ch. 457, L. 2015.)

26 **15-30-2618. (Effective July 1, 2025, on occurrence of contingency) Confidentiality of tax**
27 **records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections ~~(8)~~ and ~~(9)~~ (7) and (8) of this
28 section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or

1 make known in any manner:

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

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

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

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

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

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

14 (3) This section does not prohibit:

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

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

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

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

27 ~~(5)~~(4) Reports and returns must be preserved for at least 3 years and may be preserved until the
28 department orders them to be destroyed.

1 ~~(6)~~(5) Any offense against subsections (1) through ~~(5)~~ (4) is punishable by a fine not exceeding \$500.

2 If the offender is an officer or employee of the state, the offender must be dismissed from office or employment
3 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in
4 the case of a former officer or employee, for 1 year after conviction.

5 ~~(7)~~(6) This section may not be construed to prohibit the department from providing taxpayer return
6 information and information from employers' payroll withholding reports to:

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

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

11 ~~(8)~~(7) The department may permit the commissioner of internal revenue of the United States or the
12 proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of
13 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
14 representative an abstract of the return of income of any individual or supply the officer with information
15 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
16 or return of income of an individual, but the permission may be granted or information furnished only if the
17 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of
18 this state charged with the administration of this chapter.

19 ~~(9)~~(8) On written request to the director or a designee of the director, the department shall furnish:

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

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

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

27 (i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under
28 the unemployment compensation and workers' compensation programs, information on whether a taxpayer

1 who is the subject of an ongoing investigation by the department of labor and industry is an employee, an
 2 independent contractor, or self-employed; and

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

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

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

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

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

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

20 ~~(i)~~(h) to the superintendent of public instruction information required under 20-9-905. (Subsection
 21 ~~(9)~~~~(i)~~ (8)(h) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

22

23 **Section 23.** Section 15-30-3003, MCA, is amended to read:

24 **"15-30-3003. (Temporary) Montana farm and ranch risk management account -- deposits --**

25 **exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural

26 business may ~~create~~ hold a Montana farm and ranch risk management account that is composed of

27 contributions that were made to the account prior to January 1, 2022, as provided in this part, to use as a risk

28 management tool for the individual's or family farm corporation's agricultural business. The number of risk

1 management accounts that may be ~~created~~ held is limited to one for each individual or family farm corporation.

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

6 (a) ~~— during the a tax year; or~~

7 (b) ~~— for a specific tax year if it is made within 3 1/2 months after the close of the tax year~~
 8 beginning before January 1, 2022.

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

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

14

15 **Section 24.** Section 15-30-3004, MCA, is amended to read:

16 **"15-30-3004. (Temporary) Montana farm and ranch risk management account -- creation --**
 17 **administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the
 18 state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an
 19 investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The
 20 trust must be created by written instrument.

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

23 (3)(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months
 24 of the date of deposit.

25 (4)(3) The assets of the trust must consist entirely of cash or of obligations that have adequate stated
 26 interest and that pay the interest at least annually.

27 (5)(4) All income of the trust must be distributed currently to the grantor.

28 (6)(5) The assets of the trust may not be commingled with other property except in a common trust

1 fund or common investment fund. (Terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

2

3 **Section 25.** Section 15-30-3005, MCA, is amended to read:

4 **"15-30-3005. (Temporary) Montana farm and ranch risk management account -- distributions.**

5 (1) Distributions from the account may be used for any purpose the taxpayer chooses.

6 (2) Distributions from an account:

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

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

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

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

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

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

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

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

27

28 **Section 26.** Section 15-30-3312, MCA, is amended to read:

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

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

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

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

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

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

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

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

21 (4) The electing entity:

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

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

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

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

1 return; and

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

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

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

9 (a) __15-30-2103 and 15-30-2104;

10 (b) __15-31-101 and 15-31-121; and

11 (c) __15-31-403.

12 (7) The department may adopt rules that are necessary to implement and administer this section."
13

14 **Section 27.** Section 15-31-162, MCA, is amended to read:

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

17 A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined
18 in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or
19 business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C.
20 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be
21 attributed to shareholders, partners, or members of a limited liability company in the same proportion used to
22 report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax
23 purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or
24 a member of a limited liability company may claim in a year is \$10,000, ~~subject to the limitations in 15-30-~~
25 ~~2328(2).~~ The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no
26 carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax
27 year in which the contribution is made.

28 (2) (a) If during any tax year a charitable gift is recovered by the small business corporation,

1 partnership, or limited liability company, the entity shall include as income the amount deducted in any prior
2 year that is attributable to the charitable gift.

3 (b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall
4 increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax
5 year in which the credit was taken. (Terminates December 31, 2025--secs. 1 through 15, Ch. 254, L. 2019.)"

6

7 **Section 28.** Section 15-31-1007, MCA, is amended to read:

8 **"15-31-1007. Tax credit for media production.** (1) Subject to 15-31-1010 and through the tax year
9 ending December 31, 2029, a production company and its affiliates are allowed a credit against the taxes
10 imposed by chapter 30 and this chapter for investments in a state-certified production approved by the
11 department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base investment
12 made up to 6 months before state certification through completion of the project. The credit must be claimed for
13 the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the
14 compensation was paid unless the credit is transferred to the next tax year because the limits provided for in
15 15-31-1010 have been met. For periods after December 31, 2020, the credit must be claimed for the year in
16 which the production expenditures were incurred or the compensation was paid unless the credit is transferred
17 to the next tax year because the limits provided for in 15-31-1010 have been met.

18 (2) To claim the credit provided for in this section:

19 (a) the production company or its affiliate must have applied to the department of commerce as
20 provided in 15-31-1005 and been approved to claim or transfer the credit; or

21 (b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this section
22 was transferred.

23 (3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the
24 additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the
25 production company's base investment in the tax year.

26 (b) Additional amounts for which the credit may be claimed are:

27 (i) 25% of the compensation paid per production or season of a television series to each crew
28 member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

1 (ii) 15% of the compensation paid per production or season of a television series to each crew member
2 or production staff member who is not a resident but for whom Montana income taxes have been withheld, not
3 to exceed a \$150,000 credit per person;

4 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to
5 each actor, director, producer, or writer for whom Montana income taxes have been withheld;

6 (iv) 30% of compensation paid per production or season of a television series to a student enrolled in a
7 Montana college or university who works on the production for college credit. The credit may not exceed
8 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the
9 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.

10 (v) an additional 10% of payments made to a Montana college or university for stage rentals,
11 equipment rentals, or location fees for filming on campus;

12 (vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for
13 a production that rents a studio for 20 days or more;

14 (vii) an additional 5% for production expenditures made in an underserved area; and

15 (viii) an additional 5% of the base investment in the state if the state-certified production includes a
16 Montana screen credit furnished by the state as provided in 15-31-1004(7).

17 (4) If one production company makes a production expenditure to hire another production company to
18 produce a project or contribute elements of a project for pay, the hired production company is considered a
19 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures
20 that are incurred in the state.

21 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-
22 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has
23 a tax liability less than the amount of the credit.

24 (6) A taxpayer claiming a credit shall include with the tax return the following information:

25 (a) the amount of tax credit claimed and transferred for the tax year;

26 (b) the amount of the tax credit previously claimed or transferred;

27 (c) the amount of the tax credit carried over from a previous tax year; and

28 (d) the amount of the tax credit to be carried over to a subsequent tax year.

1 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in
2 subsection (7)(b).

3 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its
4 corporate income tax return.

5 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
6 income tax return.

7 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or
8 partner returns as follows:

9 (A) corporate partners or members shall claim their share of the credit on their corporate income tax
10 returns;

11 (B) individual partners or members shall claim their share of the credit on their individual income tax
12 returns; and

13 (C) partners or members that are estates or trusts shall claim their share of the credit on their
14 fiduciary income tax returns.

15 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits
16 through partnership and membership agreements may not be recognized unless they have a substantial
17 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

18 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
19 included the amount of the production expenditure or compensation on which the amount of the credit was
20 computed in determining Montana taxable income under [section 1] or as a deduction under ~~15-30-2131 or 15-~~
21 31-114."

22

23 **Section 29.** Section 15-32-104, MCA, is amended to read:

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

27

28 **Section 30.** Section 15-32-106, MCA, is amended to read:

1 **"15-32-106. Procedure for obtaining benefit of deduction or credit.** ~~The department of revenue~~
 2 ~~shall provide forms on which a taxpayer may apply for a tax credit under 15-32-109.~~ The department of revenue
 3 shall approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy
 4 conservation or uses a recognized nonfossil form of energy generation. The department of revenue may refer a
 5 deduction ~~or credit~~ involving energy generation to the department of environmental quality for its advice, and
 6 the department of environmental quality shall respond within 60 days. The department of revenue may refer a
 7 deduction ~~or credit~~ involving energy conservation to the department of labor and industry for its advice, and the
 8 department of labor and industry shall respond within 60 days. The department of revenue may deny a
 9 deduction ~~or credit~~ that it finds to be impractical or ineffective."
 10

10

11 **Section 31.** Section 15-61-202, MCA, is amended to read:

12 **"15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, ~~the amount of~~
 13 ~~principal provided for in subsection (2) contributed annually by an employee or account holder to an account~~
 14 ~~and all interest or other income on that~~ the principal that was contributed to a medical care savings account
 15 prior to January 1, 2022, may be excluded from the ~~adjusted gross~~ Montana taxable income of the employee or
 16 account holder and ~~are~~ is exempt from taxation, in accordance with ~~15-30-2110(2)(j)~~ [section1], as long as the
 17 principal and interest or other income is contained within the account, distributed to an immediate family
 18 member as provided in subsection (6), or withdrawn only for payment of eligible medical expenses or for paying
 19 the expenses of administering the account. Any part of the principal or income, or both, withdrawn from an
 20 account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the
 21 account and used for a purpose other than an eligible medical expense or for paying the expenses of
 22 administering the account.

23 (2) ~~(a) An employee or account holder may annually contribute not more than:~~
 24 ~~(i) \$3,500 in tax year 2018;~~
 25 ~~(ii) \$4,000 in tax year 2019;~~
 26 ~~(iii) an amount determined for each subsequent tax year by multiplying the amount in subsection~~
 27 ~~(2)(a)(ii) by an inflation factor determined by dividing the consumer price index for June of the previous tax year~~
 28 ~~by the consumer price index for June 2018 and rounding the resulting figure to the nearest \$500 increment.~~

1 ~~(b)~~ There For contributions that were made prior to January 1, 2022, there is no limitation on the
2 amount of funds and interest or other income on those funds that may be retained tax-free within an account.

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

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

11 ~~(5)~~(4) The employee or account holder who establishes the account is the owner of the account. An
12 employee or account holder may withdraw money in an account and deposit the money in another account with
13 a different or with the same account administrator without incurring tax liability.

14 ~~(6)~~(5) Within 30 days of being furnished proof ~~(6)~~(5) of the death of the employee or account holder, the
15 account administrator shall distribute the principal and accumulated interest or other income in the account to
16 the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-
17 223. An immediate family member who receives the distribution provided for in this subsection becomes the
18 account holder and may:

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

21 (b) ~~contribute to the account,~~ retain money in the account tax-free; and withdraw funds from the
22 account as provided in this chapter."
23

24 **Section 32.** Section 15-61-203, MCA, is amended to read:

25 **"15-61-203. Withdrawal of funds from account for purposes other than eligible medical**
26 **expenses.** (1) An employee or account holder may withdraw money from the individual's medical care savings
27 account for any purpose other than an eligible medical expense or for paying the expenses of administering the
28 account only on the last business day of the account administrator's business year. Money withdrawn from an

1 account pursuant to this subsection that had been excluded from taxation must be taxed as ordinary income of
2 the employee or account holder.

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

10 (3) For the purposes of this section, "last business day of the account administrator's business year",
11 as applied to an account administrator who is also the account holder or an employee, means the last weekday
12 in December."
13

14 **Section 33.** Section 15-62-103, MCA, is amended to read:

15 **"15-62-103. Definitions.** As used in this chapter, the following definitions apply:

16 (1) "Account" means an individual participating trust account established under this chapter.

17 (2) "Account owner" means the person who enters into a participating trust agreement and who is
18 designated at the time that an account is opened as having the right to withdraw money from the account
19 before the account is disbursed to or for the benefit of the designated beneficiary.

20 (3) "Board" means the board of regents of higher education established by Article X, section 9,
21 subsection (2), of the Montana constitution and 2-15-1505.

22 (4) "Committee" means the family education savings program oversight committee established in 20-
23 25-901.

24 (5) "Contributor" means a person who makes a contribution to an account for the benefit of a
25 designated beneficiary.

26 (6) "Designated beneficiary" means, with respect to an account, the person designated at the time
27 that the account is opened as the person whose ~~higher~~ education expenses are expected to be paid from the
28 account or if this person is replaced in accordance with 15-62-202, the individual replacing the former

1 designated beneficiary.

2 (7) "Education expense" means expenses for tuition, fees, books, supplies, equipment required for an
 3 education program, principal or interest on any qualified education loan, and any other typical education
 4 expense associated with an education program up to the maximum amount allowable under section 529 of the
 5 Internal Revenue Code, 26 U.S.C. 529, as amended.

6 ~~(7)~~(8) "Financial institution" means any bank, commercial bank, national bank, savings bank, savings
 7 and loan association, credit union, insurance company, trust company, investment adviser, or other similar
 8 entity that is authorized to do business in this state.

9 ~~(8)~~(9) "Higher education institution" means an eligible educational institution as defined in section
 10 ~~529(e)(5)~~ of the Internal Revenue Code, 26 U.S.C. ~~529(e)(5)~~.

11 ~~(9)~~(10)— _"Investment products" means, without limitation, certificates of deposit, savings accounts
 12 paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

13 ~~(10)~~(11) "Member of the family" means, with respect to a designated beneficiary, a member of the
 14 family of the designated beneficiary as defined in section ~~529(e)(2)~~ of the Internal Revenue Code, 26 U.S.C.
 15 ~~529(e)(2)~~.

16 ~~(11)~~(12) "Nonqualified withdrawal" means a withdrawal from an account that is not:

17 (a) a qualified withdrawal;

18 (b) a withdrawal made as the result of the death or disability of the designated beneficiary of an
 19 account;

20 (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described
 21 in section 135(d)(1)(B) or (d)(1)(C) of the Internal Revenue Code, 26 U.S.C. 135(d)(1)(B) or (d)(1)(C), and that
 22 is received by the designated beneficiary; or

23 (d) a rollover or change of designated beneficiary described in 15-62-202.

24 ~~(12)~~(13) "Participating trust agreement" means an agreement between the board, as trustee and as
 25 administrator of the program, and the account owner that creates a trust interest in the trust and provides for
 26 participation in the program.

27 ~~(13)~~(14) "Program" means the family education savings program established pursuant to 15-62-201.

28 The program must be structured to permit the long-term accumulation of savings that can be used to finance all

1 or a share of the costs of higher education.

2 ~~(14)(15)~~ "Qualified higher education expenses" means ~~qualified higher education expenses as defined~~
 3 ~~in any education expense permitted by section 529(e)(3) of the Internal Revenue Code, 26 U.S.C. 529(e)(3).~~

4 (16) "Qualified tuition program" means a qualified tuition program as defined in section 529 of the
 5 Internal Revenue Code, 26 U.S.C. 529.

6 ~~(15)(17)~~ "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher
 7 education expenses of the designated beneficiary of the account.

8 ~~(16)(18)~~ "Trust" means the family education savings trust established by 15-62-301.

9 ~~(17)(19)~~ "Trustee" means the board in its capacity as trustee of the trust.

10 ~~(18)(20)~~ "Trust interest" means an account owner's interest in the trust created by a participating trust
 11 agreement and held for the benefit of a designated beneficiary."

12

13 **Section 34.** Section 15-62-201, MCA, is amended to read:

14 **"15-62-201. Program requirements -- application -- establishment of account -- qualified and**
 15 **nonqualified withdrawal -- penalties.** (1) The program must be operated through use of accounts in the trust
 16 established by account owners. Payments to the trust for participation in the program must be made by account
 17 owners pursuant to participating trust agreements. A person who wishes to participate in the program and open
 18 an account into which funds will be deposited to pay the qualified higher education expenses of a designated
 19 beneficiary shall:

20 (a) enter into a participating trust agreement pursuant to which an account will be established as a
 21 participating trust of the trust;

22 (b) complete an application on the form prescribed by the board that includes:

23 (i) the name, address, and social security number or employer identification number of the contributor;

24 (ii) the name, address, and social security number of the account owner if the account owner is not the
 25 contributor;

26 (iii) the name, address, and social security number of the designated beneficiary;

27 (iv) the certification relating to no excess contributions adopted by the board pursuant to 20-25-902;

28 (v) the designation of the financial institution with which the funds in the participating trust will be

1 invested; and

2 (vi) any other information required by the board;

3 (c) pay the one-time application fee established by the board;

4 (d) make the minimum contribution required by the board or by opening an account; and

5 (e) designate the type of account to be opened if more than one type of account is offered.

6 (2) A person shall make contributions to an opened account in cash.

7 (3) An account owner may withdraw all or part of the balance from an account under rules prescribed
8 by the board. The rules must be used to help the board or program manager to determine if a withdrawal is a
9 nonqualified withdrawal or a qualified withdrawal to the extent that the board concludes that it is necessary for
10 the board or program manager to make that determination. The rules may require that:

11 (a) account owners seeking to make a qualified withdrawal or other withdrawal that is not a
12 nonqualified withdrawal shall provide certifications, copies of bills for qualified higher education expenses, or
13 other supporting material;

14 (b) qualified withdrawals from an account be made only by a check payable jointly to the designated
15 beneficiary and a higher education institution; and

16 (c) withdrawals not meeting certain requirements be treated as nonqualified withdrawals by the
17 program manager, and if these withdrawals are not nonqualified withdrawals, the account owner shall seek
18 refunds of penalties directly from the board.

19 (4) If the board determines that it is required to impose a penalty on nonqualified withdrawals for the
20 program to qualify as a qualified state tuition program or a qualified tuition program under section 529 of the
21 Internal Revenue Code, 26 U.S.C. 529, the board may impose a penalty in an amount equal to 10% of the
22 portion of the proposed withdrawal that would constitute income as determined in accordance with section 529
23 of the Internal Revenue Code, 26 U.S.C. 529. The penalty must be withheld and paid to the board for use in
24 operating and marketing the program and for state student financial aid.

25 (5) The board, by rule, shall increase the percentage of the penalty prescribed in subsection (4) or
26 change the basis of this penalty if the board determines that the amount of the penalty must be increased to
27 constitute a minimum penalty for purposes of qualifying the program as a qualified state tuition program or a
28 qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529.

1 (6) The board may decrease the percentage of the penalty prescribed in subsection (4) if:

2 (a) the penalty is greater than is required to constitute a minimum penalty for purposes of qualifying
3 the program as a qualified state tuition program or qualified tuition program under section 529 of the Internal
4 Revenue Code, 26 U.S.C. 529; or

5 (b) the penalty, when combined with other revenue generated under this chapter, is producing more
6 revenue than is required to cover the costs of operating and marketing the program and to recover any costs
7 not previously recovered.

8 (7) If an account owner makes a nonqualified withdrawal and a penalty imposed under subsection (4)
9 is not withheld pursuant to subsection (4) or the amount withheld was less than the amount required to be
10 withheld under that subsection for nonqualified withdrawals, the account owner shall pay:

11 (a) the unpaid portion of the penalty to the board at the same time that the account owner files a
12 federal and state income tax return for the taxable year of the withdrawal; or

13 (b) if the account owner does not file a return, the unpaid portion of the penalty on the due date for
14 federal and state income tax returns, including any authorized extensions.

15 (8) Each account must be maintained separately from each other account under the program.

16 (9) Separate records and accounting must be maintained for each account for each designated
17 beneficiary.

18 (10) A contributor to, account owner of, or designated beneficiary of an account may not direct the
19 investment of any contributions to any account or the earnings generated by the account in violation of section
20 529 of the Internal Revenue Code, 26 U.S.C. 529, and may not pledge the interest of an account or use an
21 interest in an account as security for a loan.

22 (11) If there is any distribution from an account to any person or for the benefit of any person during a
23 calendar year, the distribution must be reported to the internal revenue service and the account owner or the
24 designated beneficiary to the extent required by federal law.

25 (12) The financial institution shall provide statements to each account owner whose participating trusts
26 are invested with the institution at least once each year within 31 days after the 12-month period to which they
27 relate. The statement must identify the contributions made during a preceding 12-month period, the total
28 contributions made through the end of the period, the value of the account as of the end of this period,

1 distributions made during this period, and any other matters that the board requires be reported to the account
2 owner.

3 (13) Statements and information returns relating to accounts must be prepared and filed to the extent
4 required by federal or state tax law or by administrative rule.

5 (14) A state or local government or organizations described in section 501(c)(3) of the Internal
6 Revenue Code, 26 U.S.C. 501(c)(3), may, without designating a designated beneficiary, open and become the
7 account owner of an account to fund scholarships for persons whose identity will be determined after an
8 account is opened."

9

10 **Section 35.** Section 15-62-206, MCA, is amended to read:

11 **"15-62-206. Limitations.** (1) This chapter may not be construed to:

12 (a) give any designated beneficiary any rights or legal interest with respect to an account unless the
13 designated beneficiary is the account owner;

14 (b) guarantee that a designated beneficiary will be admitted to a higher education institution or be
15 allowed to continue enrollment at or graduate from a higher education institution located in this state after
16 admission;

17 (c) establish state residency for a person merely because the person is a designated beneficiary; or

18 (d) guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified
19 ~~higher~~ education expenses of a designated beneficiary.

20 (2) This chapter does not establish any obligation of this state or any agency or instrumentality of the
21 state to guarantee for the benefit of any account owner, contributor to an account, or designated beneficiary:

22 (a) the return of any amounts contributed to an account;

23 (b) the rate of interest or other return on any account; or

24 (c) the payment of interest or other return on any account.

25 (3) Under rules adopted by the board, each contract, application, offering or disclosure document, and
26 any other type of document identified by the board that may be used in connection with a contribution to an
27 account must clearly indicate that the account is not insured by the state and that the principal deposited or the
28 investment return is not guaranteed by the state."

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Section 36. Section 15-62-207, MCA, is amended to read:

"15-62-207. Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with ~~15-30-2110(11)~~ [section 1], by the total amount of the contributions, but not more than \$3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident."

Section 37. Section 15-62-208, MCA, is amended to read:

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

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

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

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

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

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

13 (a) April 30, 2001; or

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

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

17

18 **Section 38.** Section 15-63-202, MCA, is amended to read:

19 **"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of
 20 principal provided for in subsection (2) contributed ~~annually~~ prior to January 1, 2022, by an account holder to an
 21 account and all interest or other income on the principal that was contributed prior to January 1, 2022, may be
 22 excluded from the ~~adjusted gross~~ Montana taxable income of the account holder and is exempt from taxation,
 23 in accordance with ~~15-30-2110(2)(k)~~ [section 1], as long as the principal and interest or other income is
 24 contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by
 25 a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be
 26 excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a
 27 purpose other than for eligible costs for the purchase of a single-family residence.

28 (2) ~~(a) An account holder who files singly, head of household, or married filing separately may~~

1 ~~exclude as an annual contribution in 1 year up to \$3,000.~~

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

3 ~~(c) There~~ For contributions to principal that were made prior to January 1, 2022, there is no limitation
4 on the amount of principal and interest or other income on the principal that may be retained tax-free within an
5 account.

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

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

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

16 ~~(5) The transfer of money by a person other than the account holder to the account of an account~~
17 ~~holder does not subject the account holder to tax liability under this section. Amounts contained within the~~
18 ~~account of the receiving account holder are subject to the requirements and limitations provided in this section.~~
19 ~~The person other than the account holder who transfers money to the account is not entitled to the tax~~
20 ~~exemption under this section.~~

21 ~~(6)(3)~~ The account holder who establishes the account, individually or jointly, is the owner of the
22 account. An account holder may withdraw money in an account and deposit the money in another account with
23 a different account administrator or with the same account administrator without incurring tax liability.

24 ~~(7)(4)~~ The account holder shall use the money in the account for the eligible costs related to the
25 purchase of a single-family residence within 10 years following the year in which the account was established.
26 Any principal and income in the account not expended on eligible costs at the time of purchase of a single-
27 family residence or any principal or income remaining in the account on December 31 of the last year of the 10-
28 year period must be taxed as ordinary income.

1 ~~(8)(5)~~ The amount of a disbursement of any assets of a first-time home buyer savings account
 2 pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an
 3 account holder does not subject the account holder to tax liability.

4 ~~(9)(6)~~ Within 30 days of being furnished proof of the death of the account holder, the account
 5 administrator shall distribute the principal and accumulated interest or other income in the account to the estate
 6 of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

7

8 **Section 39.** Section 19-2-1004, MCA, is amended to read:

9 "**19-2-1004. Exemption from taxes and legal process.** (1) Except as provided in 19-2-907, 19-2-
 10 909, and subsection (2) of this section, the right of a person to any benefit or payment from a retirement system
 11 or plan and the money in the system or plan's pension trust fund is not:

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

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

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

15 ~~(ii) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as~~
 16 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

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

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

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

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

24

25 **Section 40.** Section 19-17-407, MCA, is amended to read:

26 "**19-17-407. Exemption from ~~taxation and~~ legal process.** (1) ~~The amount determined pursuant to~~
 27 ~~15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.~~

28 ~~(2)~~—Except as provided in 19-2-907, 19-2-909, and subsection ~~(3)~~ (2) of this section, benefits received

1 under this part are not subject to execution, garnishment, attachment, or any other process.

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

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

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

8

9 **Section 41.** Section 19-18-612, MCA, is amended to read:

10 **"19-18-612. Protection of benefits from legal process and taxation -- nonassignability.** ~~(4)~~

11 Except for execution or withholding for the payment of child support or for the payment of spousal support for a
12 spouse or former spouse who is the custodial parent of the child, payments made or to be made under this
13 chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a
14 pension may not assign the right, and the association and trustees may not recognize any assignment or pay
15 over any sum assigned.

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

18

19 **Section 42.** Section 19-19-504, MCA, is amended to read:

20 **"19-19-504. Protection of benefits from legal process and taxation.** ~~(4)~~ Except for execution or

21 withholding for the payment of child support or for the payment of spousal support for a spouse or former
22 spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to
23 execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are
24 unassignable except as specifically provided in 19-19-505.

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

27

28 **Section 43.** Section 19-20-706, MCA, is amended to read:

1 **"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and 19-
 2 20-306, the retirement allowances or any other benefits accrued or accruing to any person under the provisions
 3 of the retirement system and the accumulated contributions and cash and securities in the various funds of the
 4 retirement system are:

- 5 (1) exempted from any ~~state, county, or municipal tax of the state of Montana~~ except for:
 6 ~~(a) a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c);~~
 7 ~~or~~
 8 ~~(b) a refund paid under 19-20-603 of a member's contributions picked up by an employer after June~~
 9 ~~30, 1985, as provided in 19-20-602;~~
 10 (2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or
 11 equity, or any other process; and
 12 (3) unassignable except as specifically provided in this chapter."

13

14 **Section 44.** Section 19-21-212, MCA, is amended to read:

15 **"19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or
 16 withholding for the payment of child support or for the payment of spousal support for a spouse or former
 17 spouse who is the custodial parent of the child, contracts, benefits, and contributions under the university
 18 system retirement program and the earnings on the contributions are:

- 19 (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to 15-30-~~
 20 ~~2110(2)(c),~~ exempt from any ~~state, county, or municipal tax;~~
 21 (2) not subject to execution, garnishment, attachment, or other process;
 22 (3) not covered or assessable by an insurance guaranty association; and
 23 (4) unassignable except as specifically provided in the contracts."

24

25 **Section 45.** Section 20-4-503, MCA, is amended to read:

26 **"20-4-503. Critical quality educator shortage areas -- impacted schools.** (1) The board of public
 27 education, in consultation with the office of public instruction, shall:

- 28 (a) maintain and make publicly available a current list of impacted schools; and

1 (b) based on reporting by impacted schools or school districts in which impacted schools are located,
 2 identify within each impacted school, critical quality educator shortage areas under 20-4-502(1)(a). The board
 3 of public education shall also establish a process for impacted schools to report and qualify, no later than 5
 4 days after submission of a written report on a form developed by the board, a current vacancy for a critical
 5 quality educator shortage area under the criteria set forth in 20-4-502(1)(b). Critical quality educator shortage
 6 areas qualifying under 20-4-502(1)(b) are eligible for loan repayment assistance independent of the report
 7 under subsection (2) of this section.

8 (2) The board of public education shall publish by December 1 an annual report listing the critical
 9 quality educator shortage areas under 20-4-502(1)(a) in each impacted school. The report must apply to the
 10 school year that begins July 1 following the publication of the report in order to assist recruitment by impacted
 11 schools. For the school year beginning July 1, 2019, eligibility for the program based on the criteria under 20-4-
 12 502(1)(a) must be governed by the report adopted by the board of public education by December 1, 2019.

13 (3) A quality educator working at an impacted school in a critical quality educator shortage area is
 14 eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of
 15 application in accordance with the eligibility and award criteria established under this part. If a quality educator
 16 is eligible for loan assistance and remains employed in the same impacted school or another impacted school
 17 within the same school district and in the same critical quality educator shortage area for which the quality
 18 educator was originally eligible, the quality educator remains eligible for up to 3 years of state-funded loan
 19 repayment assistance and an additional 1 year of loan repayment assistance funded by the impacted school or
 20 the district under which the impacted school is operated pursuant to 20-4-504(2). ~~Both state-funded and locally
 21 funded loan repayment assistance under this section is exempt from taxation as specified in 15-30-2110(14)."~~

22

23 **Section 46.** Section 20-25-902, MCA, is amended to read:

24 **"20-25-902. Board -- powers and duties.** (1) The board shall:

25 (a) retain professional services, if necessary, including services of accountants, auditors, consultants,
 26 and other experts;

27 (b) seek rulings and other guidance relating to the program from the United States department of the
 28 treasury and the internal revenue service;

1 (c) make changes to the program as required for the participants in the program to obtain the federal
2 income tax benefits or treatment provided by section 529 of the Internal Revenue Code, 26 U.S.C. 529, as
3 amended;

4 (d) charge, impose, and collect administrative fees and service charges pursuant to any agreement,
5 contract, or transaction relating to the program;

6 (e) select the financial institution or institutions to act as the program manager pursuant to 15-62-203;

7 (f) on the recommendation of the committee, adopt rules to prevent contributions on behalf of a
8 designated beneficiary in excess of those necessary to pay the qualified ~~higher~~ education expenses of the
9 designated beneficiaries. The rules must address the following:

10 (i) procedures for aggregating the total balances of multiple accounts established for a designated
11 beneficiary;

12 (ii) the establishment of a maximum total balance that may be held in accounts for a designated
13 beneficiary;

14 (iii) requirements that persons who contribute to an account certify that to the best of their knowledge,
15 the balance in all qualified state tuition programs, as defined in section 529 of the Internal Revenue Code, 26
16 U.S.C. 529, for the designated beneficiary does not exceed the lesser of:

17 (A) a maximum college savings amount established by the board; or

18 (B) the cost in current dollars of qualified ~~higher~~ education expenses that the contributor reasonably
19 anticipates the designated beneficiary will incur;

20 (iv) requirements that any excess balances with respect to a designated beneficiary be promptly
21 withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section;

22 (g) adopt procedures as necessary to implement Title 15, chapter 62;

23 (h) serve as trustee of the family education savings trust established in 15-62-301;

24 (i) enter into participating trust agreements with account owners; and

25 (j) maintain the program on behalf of the state as required by section 529 of the Internal Revenue
26 Code, 26 U.S.C. 529.

27 (2) The definitions in 15-62-103 apply to this section."
28

1 **Section 47.** Section 33-27-101, MCA, is amended to read:

2 "**33-27-101. Short title.** Sections 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter
3 may be cited as the "Independent Liability Fund Act"."

4

5 **Section 48.** Section 33-27-102, MCA, is amended to read:

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

10

11 **Section 49.** Section 33-27-103, MCA, is amended to read:

12 "**33-27-103. Definitions.** As used in 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this
13 chapter, the following definitions apply:

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

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

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

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

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

26

27 **Section 50.** Section 37-4-104, MCA, is amended to read:

28 "**37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by**

1 **personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased or
 2 a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to
 3 practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal
 4 representative of a disabled dentist may contract with a dentist to manage the dental practice at an
 5 establishment where dental operations, oral surgery, or dental services are provided.

6 (2) A personal representative may not:

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

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

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

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

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

16 (3) For the purposes of this section:

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

20 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in 15-~~
 21 ~~30-2440~~ means unable to engage in any substantial gainful activity by reason of any medically determined
 22 physical or mental impairment lasting or expected to last at least 12 months; and

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

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

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

28 (b) the personal representative of the disabled dentist files a verified copy of a document signed by a

1 licensed physician that attests to the dentist's disability."

2

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

4 **"50-51-114. Emergency lodging program -- definitions.** (1) There is an emergency lodging
5 program for licensed establishments located in Montana to assist designated charitable organizations in
6 providing short-term lodging in Montana to individuals and families displaced from their residences.

7 ~~(2) Except as provided in subsection (8), participating establishments may receive a tax credit as~~
8 ~~provided in 15-30-2381 and 15-31-171 for providing~~The purpose of the program is to provide emergency
9 lodging to an individual or family who is:

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

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

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

16 ~~(4)~~(3) Emergency lodging provided under this section must be provided at no cost to the individual or
17 the referring organization.

18 ~~(5)~~(4) Participating establishments may offer lodging based on availability of rooms.

19 ~~(6)~~(5) The department shall maintain a registry of designated charitable organizations and shall
20 provide a list of approved organizations to establishments on request. The department shall seek comment
21 from appropriate statewide nonprofit organizations when developing and updating the registry.

22 ~~(7)~~(6) For the purposes of 50-51-115 and this section, "designated charitable organization" means an
23 organization approved by the department to make referrals for emergency lodging.

24 ~~(8) The tax credit referred to in subsections (2) and (3) does not apply to the costs of providing~~
25 ~~lodging to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or~~
26 ~~5191 and who receives financial assistance for temporary housing under 42 U.S.C. 5174."~~

27

28 **Section 52.** Section 53-2-211, MCA, is amended to read:

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

8 (2) The department shall make available to the unemployment compensation and workers'
 9 compensation programs of the department of labor and industry all information contained in its files and records
 10 pertaining to eligibility of persons for low-income energy assistance and weatherization. The information made
 11 available must include information on the amount and source of an applicant's income. The information
 12 received from the department must be used by the department of labor and industry for the purpose of
 13 determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers'
 14 compensation programs of the state and for no other purpose.

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

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

22 (4) The department may, to the extent permitted by federal law, make available to an agency of the
 23 state or to any other organization information contained in its files and records pertaining to the eligibility of
 24 persons for medicaid, cash assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-
 25 income energy assistance, weatherization, or other public assistance."
 26

27 **Section 53.** Section 53-25-117, MCA, is amended to read:

28 **"53-25-117. Deductions for contributions.** An individual who contributes to one or more accounts

1 established pursuant to this chapter in a tax year is entitled to reduce the individual's ~~adjusted gross~~ Montana
 2 taxable income, in accordance with ~~15-30-2110(12)~~ [section 1], by the total amount of the contributions, but not
 3 more than \$3,000, if the individual is:

- 4 (1) the designated beneficiary;
- 5 (2) the spouse of the designated beneficiary; or
- 6 (3) a parent, grandparent, sibling, or child related to the designated beneficiary by blood, marriage, or
 7 legal adoption."

8

9 **Section 54.** Section 53-25-118, MCA, is amended to read:

10 **"53-25-118. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax
 11 at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that
 12 ~~reduced adjusted gross income under 15-30-2110(12)~~ were deducted from income in calculating Montana
 13 individual income taxes.

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

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

1 time of the withdrawal.

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

6 (4) For the purposes of this section, all contributions made to accounts by residents of Montana who
7 are eligible for the deduction allowed under 53-25-117 are presumed to have reduced the contributor's ~~adjusted~~
8 ~~gross income~~ Montana individual income taxes in the amount of the contribution, up to the maximum allowed by
9 law, unless the contributor can demonstrate that all or a portion of the contributions did not reduce ~~adjusted~~
10 ~~gross income~~ Montana individual income taxes. Contributors who claim deductions for contributions shall report
11 on their Montana income tax returns the amount of deductible contributions made to accounts for each
12 designated beneficiary and the social security number of each designated beneficiary.

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

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

17

18 **Section 55.** Section 67-11-303, MCA, is amended to read:

19 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate
20 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms
21 that it may determine, payable out of any revenue of the authority, including revenue derived from:

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

26 (2) The bonds may be issued by resolution of the authority, without an election and without any
27 limitation of amount, except that bonds may not be issued at any time if the total amount of principal and
28 interest to become due in any year on the bonds and on any then-outstanding bonds for which revenue from

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

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

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

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

18 (6) Subject to the conditions stated in this subsection, the governing body of any municipality having a
19 population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by
20 an authority in which the municipality is included, may by resolution covenant that in the event that at any time
21 all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest
22 then due, it shall, subject to 15-10-420, levy a general tax upon all of the taxable property in the municipality for
23 the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to
24 occur within 1 year for the payment of principal and interest due on the bonds, it shall, subject to 15-10-420,
25 levy a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the
26 taxes are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that
27 more than one municipality having a population in excess of 10,000 is included in an authority issuing bonds
28 pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in

1 anticipation of, a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may
2 determine. The resolution must state the principal amount and purpose of the bonds and the substance of the
3 covenant respecting deficiencies. A resolution may not be effective until the question of its approval has been
4 submitted to the qualified electors of the municipality at a special election called for that purpose by the
5 governing body of the municipality and a majority of the electors voting on the question have voted in favor of
6 the resolution. The special election must be held in conjunction with a regular or primary election. The notice
7 and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation
8 bonds in Title 7, chapter 7, part 42, for an election called by cities and towns and as provided for county general
9 obligation bonds in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors
10 voting on the issue vote against approval of the resolution, the municipality may not make the covenant or levy
11 a tax for the payment of deficiencies pursuant to this section, but the municipality or authority may issue bonds
12 under this chapter payable solely from the sources referred to in subsection (1)."

13

14 **Section 56.** Section 70-9-803, MCA, is amended to read:

15 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is
16 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular
17 property:

18 (a) traveler's check, 15 years after issuance;

19 (b) money order, 7 years after issuance;

20 (c) stock or other equity interest in a business association or financial organization, including a

21 security entitlement under Title 30, chapter 8, 5 years after the earlier of:

22 (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the
23 apparent owner; or

24 (ii) the date of the second mailing of a statement of account or other notification or communication that
25 was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the
26 apparent owner;

27 (d) debt of a business association or financial organization, other than a bearer bond or an original
28 issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the

1 apparent owner;

2 (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years
3 after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a
4 deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of
5 maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in
6 writing or is evidenced by a memorandum or other record on file with the holder;

7 (f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the
8 obligation accrued;

9 (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if
10 redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value.
11 A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal
12 year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year
13 by the inflation factor ~~defined in 15-30-2104~~. The amount considered abandoned for a person who sells more
14 than the amount that triggers presumption of abandonment is the value of gift certificates greater than that
15 trigger.

16 (h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has
17 matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable
18 upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age
19 under the mortality table on which the reserve is based;

20 (i) property distributable by a business association or financial organization in a course of dissolution,
21 1 year after the property becomes distributable;

22 (j) property received by a court as proceeds of a class action and not distributed pursuant to the
23 judgment, 1 year after the distribution date;

24 (k) except as provided in subsection (1)(q), property held by a court, government, governmental
25 subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

26 (l) wages or other compensation for personal services, 1 year after the compensation becomes
27 payable;

28 (m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes

1 payable;

2 (n) property in an individual retirement account, defined benefit plan, or other account or plan that is
3 qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of
4 the distribution or attempted distribution of the property, the date of the required distribution as stated in the
5 plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income
6 tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

7 (o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under
8 Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution
9 date;

10 (p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the
11 community in which the cooperative is located, 5 years after the distribution date;

12 (q) surplus funds held by a county treasurer pursuant to 15-18-221, 5 years; and

13 (r) all other property, 5 years after the owner's right to demand the property or after the obligation to
14 pay or distribute the property arises, whichever first occurs.

15 (2) At the time that an interest is presumed abandoned under subsection (1), any other property right
16 accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also
17 presumed abandoned.

18 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner
19 has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on
20 behalf of the holder with the holder concerning the property or the account in which the property is held and has
21 not otherwise indicated an interest in the property. A communication with an owner by a person other than the
22 holder or its representative who has not in writing identified the property to the owner is not an indication of
23 interest in the property by the owner.

24 (4) An indication of an owner's interest in property includes:

25 (a) the presentment of a check or other instrument of payment of a dividend or other distribution made
26 with respect to an account or underlying stock or other interest in a business association or financial
27 organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution
28 has been received;

- 1 (b) owner-directed activity in the account in which the property is held, including a direction by the
 2 owner to increase, decrease, or change the amount or type of property held in the account;
- 3 (c) the making of a deposit to or withdrawal from an account in a financial organization; and
- 4 (d) the payment of a premium with respect to a property interest in an insurance policy; however, the
 5 application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance
 6 policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the
 7 beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash
 8 surrender value of a policy by the application of those provisions.

9 (5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to
 10 make demand or present an instrument or document otherwise required to obtain payment.

11 (6) The presumption provided in subsection (1) does not apply to:

12 (a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses
 13 the refunds exclusively for educational purposes; or

14 (b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or
 15 civic purposes in the community in which the cooperative is located.

16 (7) For the purposes of this section, "inflation factor" means a number determined for each tax year
 17 by dividing the consumer price index for June of the previous tax year by the consumer price index for June
 18 2015."

19

20 **Section 57.** Section 75-2-103, MCA, is amended to read:

21 **"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
 22 apply:

23 (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous
 24 substances, or any combination of those air contaminants.

25 (2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere,
 26 including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42
 27 U.S.C. 7401, et seq.

28 (3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend

1 to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere
2 with the enjoyment of life, property, or the conduct of business.

3 (4) "Associated supporting infrastructure" means:

4 (a) electric transmission and distribution facilities;

5 (b) pipeline facilities;

6 (c) aboveground ponds and reservoirs and underground storage reservoirs;

7 (d) rail transportation;

8 (e) aqueducts and diversion dams;

9 (f) devices or equipment associated with the delivery of an energy form or product produced at an
10 energy development project; or

11 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy
12 development project.

13 (5) "Board" means the board of environmental review provided for in 2-15-3502.

14 (6) (a) "Commercial hazardous waste incinerator" means:

15 (i) an incinerator that burns hazardous waste; or

16 (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.

17 (b) Commercial hazardous waste incinerator does not include a research and development facility
18 that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate
19 waste treatment remediation technologies.

20 (7) "Department" means the department of environmental quality provided for in 2-15-3501.

21 (8) "Emission" means a release into the outdoor atmosphere of air contaminants.

22 (9) (a) "Energy development project" means each plant, unit, or other development and associated
23 developments, including any associated supporting infrastructure, designed for or capable of:

24 (i) generating electricity;

25 (ii) producing gas derived from coal;

26 (iii) producing liquid hydrocarbon products;

27 (iv) refining crude oil or natural gas;

28 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax

1 incentive pursuant to Title 15, chapter 70, part 5; or

2 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~
3 ~~to 15-32-701; or~~

4 ~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or
5 greater than 50 kilovolts.

6 (b) The term does not include a nuclear facility as defined in 75-20-1202.

7 (10) "Environmental protection law" means a law contained in or an administrative rule adopted
8 pursuant to Title 75, chapter 2, 5, 10, or 11.

9 (11) "Hazardous waste" means:

10 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
11 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

12 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

13 (12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns
14 combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the
15 purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

16 (b) Incinerator does not include:

17 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
18 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

19 (ii) space heaters that burn used oil;

20 (iii) wood-fired boilers; or

21 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

22 (13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization
23 of human beings or animals, in medical research on humans or animals, or in the production or testing of
24 biologicals. The term includes:

25 (a) cultures and stocks of infectious agents;

26 (b) human pathological wastes;

27 (c) waste human blood or products of human blood;

28 (d) sharps;

1 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
2 to infectious agents during research;

3 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents;
4 and

5 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or
6 secretions from humans or animals.

7 (14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

8 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or
9 storing oil, natural gas, or other liquids produced by the well; and

10 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
11 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
12 liquids produced by the wells.

13 (b) The equipment referred to in subsection (14)(a) includes but is not limited to wellhead assemblies,
14 amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and
15 connecting tubing.

16 (c) The term does not include equipment such as compressor engines used for transmission of oil or
17 natural gas.

18 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or
19 private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the
20 federal government or an agency of the federal government, or any other legal entity and includes persons
21 resident in Canada.

22 (16) "Principal" means a principal of a corporation, including but not limited to a partner, associate,
23 officer, parent corporation, or subsidiary corporation.

24 (17) "Small business stationary source" means a stationary source that:

25 (a) is owned or operated by a person who employs 100 or fewer individuals;

26 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

27 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
28 7661, et seq.;

- 1 (d) emits less than 50 tons per year of an air pollutant;
2 (e) emits less than a total of 75 tons per year of all air pollutants combined; and
3 (f) is not excluded from this definition under 75-2-108(3).

4 (18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
5 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial
6 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution
7 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
8 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts
9 thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials;
10 asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil
11 or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

12 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes
13 regulated under the mining and reclamation laws administered by the department of environmental quality, or
14 slash and forest debris regulated under laws administered by the department of natural resources and
15 conservation."
16

17 **Section 58.** Section 75-5-103, MCA, is amended to read:

18 **"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the
19 following definitions apply:

20 (1) "Associated supporting infrastructure" means:

21 (a) electric transmission and distribution facilities;

22 (b) pipeline facilities;

23 (c) aboveground ponds and reservoirs and underground storage reservoirs;

24 (d) rail transportation;

25 (e) aqueducts and diversion dams;

26 (f) devices or equipment associated with the delivery of an energy form or product produced at an
27 energy development project; or

28 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy

1 development project.

2 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface
3 water that are adopted to protect the designated uses of a surface water body.

4 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite
5 that are adopted to protect human health.

6 (3) "Board" means the board of environmental review provided for in 2-15-3502.

7 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or
8 other wastes, creating a hazard to human health.

9 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

10 (6) (a) "Currently available data" means data that is readily available to the department at the time a
11 decision is made, including information supporting its previous lists of water bodies that are threatened or
12 impaired.

13 (b) The term does not mean new data to be obtained as a result of department efforts.

14 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a
15 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant
16 to 75-5-301(5)(c).

17 (8) "Department" means the department of environmental quality provided for in 2-15-3501.

18 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and
19 includes sewage systems and treatment works.

20 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of
21 chemical, physical, biological, and other constituents that are discharged into state waters.

22 (11) (a) "Energy development project" means each plant, unit, or other development and associated
23 developments, including any associated supporting infrastructure, designed for or capable of:

24 (i) generating electricity;

25 (ii) producing gas derived from coal;

26 (iii) producing liquid hydrocarbon products;

27 (iv) refining crude oil or natural gas;

28 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax

1 incentive pursuant to Title 15, chapter 70, part 5; or

2 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~
3 ~~to 15-32-701; or~~

4 ~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or
5 greater than 50 kilovolts.

6 (b) The term does not include a nuclear facility as defined in 75-20-1202.

7 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971,
8 whether or not those uses are included in the water quality standards.

9 (13) "High-quality waters" means all state waters, except:

10 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
11 the board's classification rules; and

12 (b) surface waters that:

13 (i) are not capable of supporting any one of the designated uses for their classification; or

14 (ii) have zero flow or surface expression for more than 270 days during most years.

15 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
16 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
17 standards.

18 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
19 development of any natural resource, together with any sewage that may be present.

20 (16) "Interested person" means a person who has a real property interest, a water right, or an
21 economic interest that is or may be directly and adversely affected by the department's preliminary decision
22 regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested
23 authorization to degrade high-quality waters.

24 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
25 of its existing or future nonpoint sources or to natural background sources.

26 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a
27 violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the
28 maximum change that can occur from the best practicable condition in a surface water without causing a

1 violation of the surface water quality standards.

2 (19) "Local department of health" means the staff, including health officers, employed by a county, city,
3 city-county, or district board of health.

4 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,
5 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and
6 zinc.

7 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued
8 by the department where water quality standards may be exceeded, subject to conditions that are imposed by
9 the department and that are consistent with the rules adopted by the board.

10 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
11 determination that base numeric nutrient standards cannot be achieved because of economic impacts or
12 because of the limits of technology. The term includes individual, general, and alternative nutrient standards
13 variances in accordance with 75-5-313.

14 (23) "Nutrient work group" means an advisory work group, convened by the department, representing
15 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other
16 interested parties that will advise the department on the base numeric nutrient standards, the development of
17 nutrient standards variances, and the implementation of those standards and variances together with
18 associated economic impacts.

19 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,
20 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded
21 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

22 (25) "Outstanding resource waters" means:

23 (a) state surface waters located wholly within the boundaries of areas designated as national parks or
24 national wilderness areas as of October 1, 1995; or

25 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316
26 and approved by the legislature.

27 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point
28 source.

1 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that
2 property affects the quality of the state water.

3 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,
4 partnership, individual, or other entity and includes persons resident in Canada.

5 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited
6 to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other
7 floating craft, from which pollutants are or may be discharged.

8 (30) (a) "Pollution" means:

9 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters
10 that exceeds that permitted by Montana water quality standards, including but not limited to standards relating
11 to change in temperature, taste, color, turbidity, or odor; or

12 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other
13 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or
14 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other
15 wildlife.

16 (b) The term does not include:

17 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge
18 permit rules adopted by the board under this chapter;

19 (ii) activities conducted under this chapter that comply with the conditions imposed by the department
20 in short-term authorizations pursuant to 75-5-308;

21 (iii) contamination of ground water within the boundaries of an underground mine using in situ coal
22 gasification and operating in accordance with a permit issued under 82-4-221.

23 (c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

24 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or
25 other buildings, including discharge from human beings or animals, together with ground water infiltration and
26 surface water present.

27 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other
28 wastes to an ultimate disposal point.

1 (33) "Standard of performance" means a standard adopted by the board for the control of the
2 discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of
3 the best available demonstrated control technology, processes, operating methods, or other alternatives,
4 including, when practicable, a standard permitting no discharge of pollutants.

5 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or
6 underground.

7 (b) The term does not apply to:

8 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

9 (ii) irrigation waters or land application disposal waters when the waters are used up within the
10 irrigation or land application disposal system and the waters are not returned to state waters.

11 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in
12 combination with narrative information, that supports a finding as to whether a water body is achieving
13 compliance with applicable water quality standards.

14 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data
15 and calculated increases in loads show that the water body or stream segment is fully supporting its designated
16 uses but threatened for a particular designated use because of:

17 (a) proposed sources that are not subject to pollution prevention or control actions required by a
18 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

19 (b) documented adverse pollution trends.

20 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for
21 point sources and load allocations for both nonpoint sources and natural background sources established at a
22 level necessary to achieve compliance with applicable surface water quality standards.

23 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding
24 sewage, industrial wastes, or other wastes.

25 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated
26 to one of its existing or future point sources.

27 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,
28 or other management practices applied to point and nonpoint sources designed to protect, maintain, and

1 improve the quality of state waters. Water quality protection practices include but are not limited to treatment
2 requirements, standards of performance, effluent standards, and operating procedures and practices to control
3 site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

4 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or
5 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

6 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
7 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
8 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in
9 an advisory capacity as provided in 75-5-704.

10 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires
11 otherwise, in this chapter, the following definitions apply:

12 (1) "Associated supporting infrastructure" means:

13 (a) electric transmission and distribution facilities;

14 (b) pipeline facilities;

15 (c) aboveground ponds and reservoirs and underground storage reservoirs;

16 (d) rail transportation;

17 (e) aqueducts and diversion dams;

18 (f) devices or equipment associated with the delivery of an energy form or product produced at an
19 energy development project; or

20 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy
21 development project.

22 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface
23 water that are adopted to protect the designated uses of a surface water body.

24 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite
25 that are adopted to protect human health.

26 (3) "Board" means the board of environmental review provided for in 2-15-3502.

27 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or
28 other wastes, creating a hazard to human health.

1 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

2 (6) (a) "Currently available data" means data that is readily available to the department at the time a
3 decision is made, including information supporting its previous lists of water bodies that are threatened or
4 impaired.

5 (b) The term does not mean new data to be obtained as a result of department efforts.

6 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a
7 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant
8 to 75-5-301(5)(c).

9 (8) "Department" means the department of environmental quality provided for in 2-15-3501.

10 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and
11 includes sewage systems and treatment works.

12 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of
13 chemical, physical, biological, and other constituents that are discharged into state waters.

14 (11) (a) "Energy development project" means each plant, unit, or other development and associated
15 developments, including any associated supporting infrastructure, designed for or capable of:

16 (i) generating electricity;

17 (ii) producing gas derived from coal;

18 (iii) producing liquid hydrocarbon products;

19 (iv) refining crude oil or natural gas;

20 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax

21 incentive pursuant to Title 15, chapter 70, part 5; or

22 ~~(vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant~~
23 ~~to 15-32-701; or~~

24 ~~(vii)~~(vi) transmitting electricity through an electric transmission line with a design capacity of equal to or
25 greater than 50 kilovolts.

26 (b) The term does not include a nuclear facility as defined in 75-20-1202.

27 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971,
28 whether or not those uses are included in the water quality standards.

1 (13) "High-quality waters" means all state waters, except:

2 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
3 the board's classification rules; and

4 (b) surface waters that:

5 (i) are not capable of supporting any one of the designated uses for their classification; or

6 (ii) have zero flow or surface expression for more than 270 days during most years.

7 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
8 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
9 standards.

10 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
11 development of any natural resource, together with any sewage that may be present.

12 (16) "Interested person" means a person who has a real property interest, a water right, or an
13 economic interest that is or may be directly and adversely affected by the department's preliminary decision
14 regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested
15 authorization to degrade high-quality waters.

16 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
17 of its existing or future nonpoint sources or to natural background sources.

18 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a
19 violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the
20 maximum change that can occur from the best practicable condition in a surface water without causing a
21 violation of the surface water quality standards.

22 (19) "Local department of health" means the staff, including health officers, employed by a county, city,
23 city-county, or district board of health.

24 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,
25 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and
26 zinc.

27 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued
28 by the department where water quality standards may be exceeded, subject to conditions that are imposed by

1 the department and that are consistent with the rules adopted by the board.

2 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
3 determination that base numeric nutrient standards cannot be achieved because of economic impacts or
4 because of the limits of technology. The term includes individual, general, and alternative nutrient standards
5 variances in accordance with 75-5-313.

6 (23) "Nutrient work group" means an advisory work group, convened by the department, representing
7 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other
8 interested parties that will advise the department on the base numeric nutrient standards, the development of
9 nutrient standards variances, and the implementation of those standards and variances together with
10 associated economic impacts.

11 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,
12 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded
13 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

14 (25) "Outstanding resource waters" means:

15 (a) state surface waters located wholly within the boundaries of areas designated as national parks or
16 national wilderness areas as of October 1, 1995; or

17 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316
18 and approved by the legislature.

19 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point
20 source.

21 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that
22 property affects the quality of the state water.

23 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,
24 partnership, individual, or other entity and includes persons resident in Canada.

25 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited
26 to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other
27 floating craft, from which pollutants are or may be discharged.

28 (30) (a) "Pollution" means:

1 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters
2 that exceeds that permitted by Montana water quality standards, including but not limited to standards relating
3 to change in temperature, taste, color, turbidity, or odor; or

4 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other
5 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or
6 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other
7 wildlife.

8 (b) The term does not include:

9 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge
10 permit rules adopted by the board under this chapter;

11 (ii) activities conducted under this chapter that comply with the conditions imposed by the department
12 in short-term authorizations pursuant to 75-5-308;

13 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in
14 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter
15 11, part 1;

16 (iv) contamination of ground water within the boundaries of an underground mine using in situ coal
17 gasification and operating in accordance with a permit issued under 82-4-221;

18 (c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

19 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or
20 other buildings, including discharge from human beings or animals, together with ground water infiltration and
21 surface water present.

22 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other
23 wastes to an ultimate disposal point.

24 (33) "Standard of performance" means a standard adopted by the board for the control of the
25 discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of
26 the best available demonstrated control technology, processes, operating methods, or other alternatives,
27 including, when practicable, a standard permitting no discharge of pollutants.

28 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or

1 underground.

2 (b) The term does not apply to:

3 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

4 (ii) irrigation waters or land application disposal waters when the waters are used up within the
5 irrigation or land application disposal system and the waters are not returned to state waters.

6 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in
7 combination with narrative information, that supports a finding as to whether a water body is achieving
8 compliance with applicable water quality standards.

9 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data
10 and calculated increases in loads show that the water body or stream segment is fully supporting its designated
11 uses but threatened for a particular designated use because of:

12 (a) proposed sources that are not subject to pollution prevention or control actions required by a
13 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

14 (b) documented adverse pollution trends.

15 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for
16 point sources and load allocations for both nonpoint sources and natural background sources established at a
17 level necessary to achieve compliance with applicable surface water quality standards.

18 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding
19 sewage, industrial wastes, or other wastes.

20 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated
21 to one of its existing or future point sources.

22 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,
23 or other management practices applied to point and nonpoint sources designed to protect, maintain, and
24 improve the quality of state waters. Water quality protection practices include but are not limited to treatment
25 requirements, standards of performance, effluent standards, and operating procedures and practices to control
26 site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

27 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or
28 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

1 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
2 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
3 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in
4 an advisory capacity as provided in 75-5-704."

5

6 **Section 59.** Section 87-2-102, MCA, is amended to read:

7 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing
8 resident hunting, fishing, and trapping licenses, the following provisions apply:

9 (1) (a) A member of the regular armed forces of the United States, a member's spouse or dependent,
10 as defined in ~~45-30-2445~~ subsection (1)(c), who resides in the member's household, or a member of the armed
11 forces of a foreign government attached to the regular armed forces of the United States is considered a
12 resident for the purposes of this chapter if:

13 (i) the member was a resident of Montana under the provisions of subsection (4) and continues to
14 meet the residency criteria of subsections (4)(b) through (4)(e); or

15 (ii) the member is currently stationed in and assigned to active duty in Montana, has resided in
16 Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety
17 course approved by the department, as provided in 87-2-105, or a certificate verifying the successful
18 completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in
19 time of war. Reassignment to another state, United States territory, or country terminates Montana residency
20 for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's
21 spouse and dependents continue to physically reside in Montana and the member continues to meet the
22 residency criteria of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular
23 armed forces as a "home of record" or "home of residence" in that member's armed forces records does not
24 determine the member's residency for purposes of this section.

25 (b) A member of the regular armed forces of the United States who is otherwise considered a
26 Montana resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the
27 member, by virtue of that membership, also possesses, has applied for, or has received resident hunting,
28 fishing, or trapping privileges in another state or country.

- 1 (c) The term "dependent" means any of the following individuals over half of whose support was
 2 received from the member:
- 3 (i) a son or daughter of the taxpayer or a descendant of either;
 4 (ii) a stepson or stepdaughter of the taxpayer;
 5 (iii) a brother, sister, stepbrother, or stepsister of the taxpayer;
 6 (iv) the father or mother of the taxpayer or an ancestor of either;
 7 (v) a stepfather or stepmother of the taxpayer;
 8 (vi) a son or daughter of a brother or sister of the taxpayer;
 9 (vii) a brother or sister of the father or mother of the taxpayer;
 10 (viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the
 11 taxpayer;
- 12 (ix) an individual who, for the tax year of the taxpayer, has as the individual's principal place of abode
 13 the home of the taxpayer and is a member of the taxpayer's household; or
- 14 (x) an individual who:
- 15 (A) is a descendant of a brother or sister of the father or mother of the taxpayer;
 16 (B) for the tax year of the taxpayer, received institutional care required by reason of a physical or
 17 mental disability; and
- 18 (C) before receiving the institutional care, was a member of the same household as the taxpayer.
- 19 (d) For purposes of this section:
- 20 (i) the terms "brother" and "sister" include a brother or sister by the half blood; and
 21 (ii) in determining whether any of the relationships specified in this section exist, a legally adopted child
 22 of an individual must be treated as a child of the individual by blood.
- 23 (2) A person who has physically resided in Montana as the person's principal or primary home or
 24 place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before
 25 making application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used
 26 in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or
 27 primary home or place of abode.
- 28 (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes

1 of this section by physically residing in Montana as the person's principal or primary home or place of abode for
2 not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any
3 resident hunting, fishing, or trapping license.

4 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to
5 be considered a resident for purposes of this section:

6 (a) the person's principal or primary home or place of abode is in Montana;

7 (b) the person files Montana state income tax returns as a resident if required to file;

8 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns
9 and operates in Montana;

10 (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident
11 hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or
12 trapping privileges in another state or country; and

13 (e) if the person registers to vote, the person registers only in Montana.

14 (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who
15 would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)
16 or (3) is considered a resident for purposes of this section.

17 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days
18 within Montana, considered a resident for the purpose of making application for a fishing license as long as the
19 person remains an enrollee in a Montana camp.

20 (7) A person who does not reside in Montana but who meets all of the following requirements is a
21 resident for purposes of obtaining hunting and fishing licenses:

22 (a) The person's principal employment is within this state and the income from this employment is the
23 principal source of the applicant's family income.

24 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
25 amount.

26 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
27 months immediately preceding each application.

28 (d) The person's state of residency has laws substantially similar to this subsection (7).

1 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
 2 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
 3 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
 4 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
 5 required to show proof of the parental, guardianship, or custodial relationship to the minor.

6 (9) A person is not considered a resident for the purposes of this section if the person:

7 (a) claims residence in any other state or country for any purpose; or

8 (b) is an absentee property owner paying property tax on property in Montana.

9 (10) A license agent is not considered a representative of the state for the purpose of determining a
 10 license applicant's residence status."
 11

12 **Section 60.** Section 87-2-105, MCA, is amended to read:

13 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to
 14 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting
 15 license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the
 16 license determines proof of completion of:

17 (a) a Montana hunter safety and education course established in subsection (4) or (6);

18 (b) a hunter safety course in any other state or province; or

19 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate
 20 as provided in 87-2-126.

21 (2) A hunting license may not be issued to a member of the regular armed forces of the United States
 22 or to a member of the armed forces of a foreign government attached to the armed forces of the United States
 23 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to
 24 a member's spouse or dependent, as defined in ~~15-30-2115~~ 87-2-102, who resides in the member's household,
 25 unless the person authorized to issue the license determines proof of completion of a hunter safety course
 26 approved by the department or a hunter safety course in any state or province.

27 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person
 28 authorized to issue the license receives an archery license issued for a prior hunting season or determines

1 proof of completion of a bowhunter education course from the national bowhunter education foundation or any
 2 other bowhunter education program approved by the department. Neither the department nor the license agent
 3 is required to provide records of past archery license purchases. As part of the department's bow and arrow
 4 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

5 (4) The department shall provide for a hunter safety and education course that includes instruction in
 6 the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one
 7 of its objectives the promotion of hunter safety and education. The department may designate as an instructor
 8 any person it finds to be competent to give instructions in hunter safety and education, including the handling of
 9 firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from
 10 Montana's hunter safety and education course to a person successfully completing the course.

11 (5) The department shall provide for a course of instruction from the national bowhunter education
 12 foundation or any other bowhunter education program approved by the department and for that purpose may
 13 cooperate with any reputable organization having as one of its objectives the promotion of safety in the
 14 handling of bow hunting tackle. The department may designate as an instructor any person it finds to be
 15 competent to give bowhunter education instruction. A person appointed shall give the course of instruction and
 16 shall issue a certificate of completion to a person successfully completing the course.

17 (6) The department may develop an adult hunter safety and education course.

18 (7) The department may adopt rules regarding how a person authorized to issue a license determines
 19 proof of completion of a required course."

20

21 **NEW SECTION. Section 61. Repealer.** The following sections of the Montana Code Annotated are
 22 repealed:

- 23 7-21-3701. Purpose of empowerment zone.
 24 7-21-3702. Definitions.
 25 7-21-3703. Empowerment zones -- creation.
 26 7-21-3704. Criteria for empowerment zone.
 27 7-21-3710. Tax credits for employers in empowerment zone.
 28 7-21-3715. Rulemaking authority.

- 1 15-30-2110. Adjusted gross income.
- 2 15-30-2111. Nonresident and temporary resident taxpayers -- adjusted gross income.
- 3 15-30-2114. Exemptions -- inflation adjustment.
- 4 15-30-2115. General definition of dependent.
- 5 15-30-2116. Additional exemption for dependent child with disability -- physician's verification.
- 6 15-30-2117. Military salary, veterans' bonus, or death benefit -- exemptions.
- 7 15-30-2119. Net operating loss -- computation.
- 8 15-30-2131. Deductions allowed in computing net income.
- 9 15-30-2132. Standard deduction.
- 10 15-30-2133. Nondeductible items in computing net income.
- 11 15-30-2141. Independent liability fund -- deductibility.
- 12 15-30-2142. Income tax deduction for contribution to veterans' programs.
- 13 15-30-2143. Deduction for contributions to child abuse and neglect prevention program.
- 14 15-30-2144. Deposit of child abuse and neglect prevention program deductible contributions.
- 15 15-30-2152. Computation of income of estates or trusts -- exemption.
- 16 15-30-2301. Capital gains credit.
- 17 15-30-2319. Credit for energy-conserving investments.
- 18 15-30-2320. Credit for alternative fuel motor vehicle conversion.
- 19 15-30-2326. Credit for contributions to university or college foundations and endowment funds.
- 20 15-30-2367. Tax credit for providing disability insurance for employees.
- 21 15-30-2342. Credit for preservation of historic buildings.
- 22 15-30-2356. Empowerment zone new employees -- tax credit.
- 23 15-30-2364. Adoption tax credit -- limitations.
- 24 15-30-2366. Credit for expense of caring for certain elderly family members.
- 25 15-30-2373. Credit for dependent care assistance and referral services.
- 26 15-30-2381. Tax credit for providing emergency lodging.
- 27 15-31-131. Credit for dependent care assistance and referral services.
- 28 15-31-132. Tax credit for providing disability insurance for employees.

- 1 15-31-134. Empowerment zone new employees -- tax credit.
- 2 15-31-135. Contribution by small business corporation.
- 3 15-31-136. Contribution by partnership.
- 4 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 5 15-31-151. Credit for preservation of historic buildings.
- 6 15-31-163. Capital gain exclusion from sale of mobile home park.
- 7 15-31-171. Tax credit for providing emergency lodging.
- 8 15-32-109. Credit for energy-conserving expenditures.
- 9 15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.
- 10 15-32-201. Amount of credit -- to whom available.
- 11 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 12 15-32-203. Department to make rules.
- 13 15-32-401. Purpose and statement of policy.
- 14 15-32-402. Commercial or net metering system investment credit -- alternative energy systems.
- 15 15-32-404. Carryover of credit.
- 16 15-32-405. Exclusion from other tax incentives.
- 17 15-32-406. Separation of credit portion.
- 18 15-32-407. Rules authorized.
- 19 15-32-501. Purpose and statement of policy.
- 20 15-32-502. Definitions.
- 21 15-32-503. Exploration incentive credit.
- 22 15-32-504. Procedure for requesting and certifying credit.
- 23 15-32-505. Application of credit.
- 24 15-32-506. Credit carryover.
- 25 15-32-507. Credit limitation.
- 26 15-32-508. Credit assignment.
- 27 15-32-509. Record of credit use.
- 28 15-32-510. Deduction for donation of exploration information.

- 1 15-32-601. Definitions.
- 2 15-32-602. Amount and duration of credit -- how claimed.
- 3 15-32-603. Credit for investment in property used to collect or process reclaimable material or to
- 4 manufacture a product from reclaimed material.
- 5 15-32-604. Limitation of credit.
- 6 15-32-609. Recycled material qualifying for deduction -- purpose -- rulemaking.
- 7 15-32-610. Deduction for purchase of recycled material.
- 8 15-32-611. Department to make rules.
- 9 15-32-701. Oilseed crush facility -- tax credit.
- 10 15-32-702. Biodiesel or biolubricant production facility tax credit.
- 11 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.
- 12 33-2-724. Empowerment zone new employees -- tax credit.

13

14 **NEW SECTION. Section 62. Transition -- carryover of credits.** A credit allowed a taxpayer prior to

15 January 1, 2022, under the provisions of law in effect prior to January 1, 2022, that may be carried forward for a

16 specified number of years is not impaired by [this act], and a taxpayer may claim the credit for the taxes

17 specified for the period established in the section at the time the credit was first allowed. This section applies to

18 all tax credits that are removed or repealed by [this act].

19

20 **NEW SECTION. Section 63. Transition.** (1) As used in this section, the following definitions apply:

21 (a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's

22 Montana taxable income related to transition items provided in subsection (3).

23 (b) "Transition item" means any difference arising prior to January 1, 2022, from a difference in

24 federal and Montana income tax laws in:

25 (i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;

26 (ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense;

27 or

28 (iii) the basis of an asset or liability that will not, after December 31, 2021, increase or decrease a

1 taxpayer's federal taxable income.

2 (2) An adjustment to Montana taxable income may not be made to take transition items into account
3 except as provided in subsection (3).

4 (3) On or before the due date, including extensions, of a return for the tax year ending after December
5 31, 2021, and before January 1, 2023, a taxpayer may, on forms prescribed by the department, file an election
6 to make a transition adjustment to Montana taxable income. The election must specify and account for all
7 transition items, including but not limited to the following:

8 (a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the
9 Internal Revenue Code that is carried over to a tax year ending after December 31, 2021, and before January
10 1, 2023, and if the amount of the federal carryover is not the same amount as the Montana carryover:

11 (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana
12 carryover is smaller than the federal carryover; and

13 (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana
14 carryover is larger than the federal carryover.

15 (b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of
16 the Internal Revenue Code that is carried over to a tax year ending after December 31, 2021, and before
17 January 1, 2023, and if the amount of the federal carryover is not the same amount as the Montana carryover:

18 (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana
19 carryover is smaller than the federal carryover; and

20 (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana
21 carryover is larger than the federal carryover.

22 (c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal
23 return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA
24 pursuant to section 408A(d)(3) of the Internal Revenue Code but included all the income in the taxpayer's
25 Montana income tax return, the sum of the balance of the federal deferred amount as of January 1, 2022, is a
26 negative adjustment to the taxpayer's Montana taxable income.

27 (d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers
28 and net operating loss carrybacks under section 172(a) of the Internal Revenue Code in a tax year ending after

1 December 31, 2021, and before January 1, 2023, if the taxpayer's federal net operating loss is different from
2 the taxpayer's Montana net operating loss as of December 31, 2021, no adjustment to the taxpayer's Montana
3 taxable income may be made.

4 (e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax
5 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and
6 (3)(c):

7 (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana
8 adjusted basis is higher than the federal adjusted basis; and

9 (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana
10 adjusted basis is lower than the federal adjusted basis.

11 (f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax
12 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and
13 (3)(c):

14 (i) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana
15 adjusted basis is higher than the federal adjusted basis; and

16 (ii) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana
17 adjusted basis is lower than the federal adjusted basis.

18 (g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year
19 beginning after December 31, 2020, resulted in a reduction of Montana income tax liability, the refund is, to the
20 extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the
21 taxpayer's Montana taxable income.

22 (4) The department of revenue is authorized to adopt rules and require facts and information to be
23 reported that it considers necessary to administer the transition adjustment provided in this section.

24
25 **NEW SECTION. Section 64. Codification instruction.** [Section 1] is intended to be codified as an
26 integral part of Title 15, chapter 30, part 21, and the provisions of Title 15, chapter 30, part 21, apply to [section
27 1].

28

1 NEW SECTION. **Section 65. Severability.** If a part of [this act] is invalid, all valid parts that are
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
3 the part remains in effect in all valid applications that are severable from the invalid applications.

4

5 NEW SECTION. **Section 66. Effective date.** [This act] is effective January 1, 2022.

6

7 NEW SECTION. **Section 67. Applicability.** [This act] applies to tax years beginning after December
8 31, 2021.

9

- END -