

## 1 SENATE BILL NO. 399

2 INTRODUCED BY G. HERTZ, M. BLASDEL

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-

18 163, 15-31-1007, 15-32-104, 15-32-106, 15-32-610, 15-61-202, 15-61-203, 15-62-103, 15-62-201, 15-62-206,

19 15-62-207, 15-62-208, 15-63-202, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 20-4-

20 503, 20-25-902, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 50-51-114, 53-2-211, 53-25-117, 53-25-118, 67-

21 11-303, 70-9-803, 75-2-103, 75-5-103, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 7-21-3701, 7-

22 21-3702, 7-21-3703, 7-21-3704, 7-21-3710, 7-21-3715, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2115, 15-

23 30-2116, 15-30-2117, 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143,

24 15-30-2144, 15-30-2152, 15-30-2301, 15-30-2319, 15-30-2320, 15-30-2326, ~~15-30-2342~~, 15-30-2356, 15-30-

25 2364, 15-30-2366, 15-30-2373, 15-30-2381, 15-31-131, 15-31-132, 15-31-134, 15-31-135, 15-31-136, 15-31-

26 137, ~~15-31-151~~, ~~15-31-163~~, 15-31-171, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-401,

27 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-

28 505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-510, ~~15-32-601~~, ~~15-32-602~~, ~~15-32-603~~, ~~15-32-604~~,

1 ~~15-32-609, 15-32-610, 15-32-611, 15-32-701, 15-32-702, 15-32-703, AND 33-2-724, MCA; AND PROVIDING A~~  
 2 DELAYED 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)~~ (3)(m);

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; AND

2 (M) THE AMOUNT OF THE GAIN RECOGNIZED FROM THE SALE OR EXCHANGE OF A MOBILE HOME PARK AS  
3 PROVIDED IN 15-31-163.

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

6 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38  
7 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  
8 and salaries paid regardless of the credit taken; or

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

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

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

26 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for in  
27 15-62-208.

28 (6) (a) An individual who contributes to one or more accounts established under the Montana

1 achieving a better life experience program or to a qualified program established and maintained by another  
 2 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of  
 3 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions  
 4 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as  
 5 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with  
 6 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or  
 7 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of  
 8 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

9 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-  
 10 25-118.

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

15

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

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

21

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

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

- 1 (a) any port or transportation and storage facility;  
2 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;  
3 (c) grants or contributions from the federal government; or  
4 (d) other sources.

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

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

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

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

26 (b) As further security for the bonds, the authority, with the approval of the governing body of the  
27 county or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security interest  
28 in all or any portion of its port, transportation, storage, or other facilities, whether or not the facilities are

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

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

17

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

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

- 22 (a) a railroad;  
 23 (b) taxes levied pursuant to 7-14-1632;  
 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 a year on the bonds and on any then-outstanding bonds for which revenue from the



1 same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the  
 2 resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to  
 3 impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to  
 4 make the revenue from the pledged source in the year at least equal to the amount of principal and interest due  
 5 in 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 Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from  
 8 revenue of the authority and must state on their face the applicable limitations or restrictions regarding the  
 9 source from which the principal and interest are payable.

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

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

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

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

22

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

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

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

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

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

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

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

8 ~~(3)(2)~~ "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

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

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

12 (c) that is not a disregarded entity.

13 ~~(4)(3)~~ "Department" means the department of revenue.

14 ~~(5)(4)~~ "Disregarded entity" means a business entity:

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

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

20 ~~(6)(5)~~ "Dividend" means:

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

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

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

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

1 U.S.C. 641 through 692.

2 ~~(7)(8)~~ "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any  
3 person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

4 ~~(8)(9)~~ "Foreign C. corporation" means a corporation that is not engaged in or doing business in  
5 Montana, as provided in 15-31-101.

6 ~~(9)(10)~~—"Foreign government" means any jurisdiction other than the one embraced within the United  
7 States, its territories, and its possessions.

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

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

14 ~~(11)(12)~~ "Inflation factor" means a number determined for each tax year by dividing the consumer price  
15 index for June of the previous tax year by the consumer price index for June ~~2015~~ 2022 2021.

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

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

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

26 ~~(14)(16)~~ "Knowingly" is as defined in 45-2-101.

27 ~~(15)(17)~~ "Limited liability company" means a limited liability company, domestic limited liability  
28 company, or a foreign limited liability company as defined in 35-8-102.

1           ~~(16)~~(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

2           ~~(17)~~(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

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

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

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

7           ~~(18)~~(21) (a) "Montana source income" means:

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

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

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

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

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

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

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

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

24           (ix) net royalties from real property and from tangible real property to the extent the property is used in  
25 the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state  
26 is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical  
27 location of the property in the state during the royalty period in the tax year and the denominator of which is the  
28 number of days of physical location of the property everywhere during all royalty periods in the tax year. If the

1 physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in  
 2 which it was located at the time the person paying the royalty obtained possession.

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

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

8 (xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or  
 9 credit:

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

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

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

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

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

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

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

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

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

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

25 (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership  
 26 doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,  
 27 multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the  
 28 apportionment factor as provided in this subsection ~~(18)(a)(xvii)~~ (21)(a)(xvii) does not fairly and equitably

1 represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for,  
 2 or the department may require with respect to any and all of the partnership interest, the employment of another  
 3 method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection  
 4 ~~(18)(a)(xvii)~~ (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align  
 5 those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

6 (b) The term does not include:

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

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

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

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

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

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

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

27 ~~(23)(26)~~ "Partnership" means a general or limited partnership, limited liability partnership, limited  
 28 liability company, or other entity, if treated as a partnership for federal income tax purposes.

1           ~~(24)~~(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

2           ~~(25)~~(28) "Pension and annuity income" means:

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

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

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

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

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

17           ~~(26)~~(29) "Purposely" is as defined in 45-2-101.

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

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

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

28           ~~(30)~~(33) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders

1 in proportion to their previous holdings.

2 (34) "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the  
3 Internal Revenue Code, 26 U.S.C. 2(a).

4 ~~(34)(35)~~ "Tax year" means the taxpayer's taxable year for federal income tax purposes.

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

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

10

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

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

19

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

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

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

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

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

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



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

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

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

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

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

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

7 (b) for every head of household:

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

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

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

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

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

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

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

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

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

22  
23 **Section 9.** Section 15-30-2104, MCA, is amended to read:

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

28 (b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or credit

1 to be counted more than once in determining the amount of Montana source income, and the department may  
 2 adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular items  
 3 of income, gain, loss, deduction, expense, or credit.

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

12

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

14 "**15-30-2113. Determination of status -- effect of marital status elections.** For purposes of this  
 15 chapter:

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

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

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

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

27

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

1           **"15-30-2151. Tax on beneficiaries or fiduciaries of estates or trusts.** (1) A tax ~~must be~~ is imposed  
 2 ~~upon either~~ on the fiduciaries or the beneficiaries of estates and trusts as provided in this section, except to the  
 3 extent that estates and trusts must be held for educational, charitable, or religious purposes. The tax must be  
 4 levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust,  
 5 including:

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

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

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

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

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

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

1 beneficiary's income derived through the estate or trust only to the extent provided in 15-30-2111 for individuals  
 2 other than residents.

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

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

15

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

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

21

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

23 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits  
 24 must be reviewed during the biennium commencing July 1, 2019:

25 (a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

26 (b) the credit for contractor's gross receipts provided for in 15-50-207;

27 (c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127; and

28 ~~(d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;~~

1 ~~(e) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; and~~  
 2 ~~(f)(d) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.~~

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

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

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

7 ~~(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-~~  
 8 ~~31-134;~~

9 ~~(d) the credit for contributions to a university or college foundation or endowment provided for in 15-~~  
 10 ~~30-2326, 15-31-135, and 15-31-136;~~

11 ~~(e)(a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-~~  
 12 ~~30-3110, and 15-31-158; and~~

13 ~~(f)(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-~~  
 14 ~~3111, and 15-31-159.~~

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

16 ~~(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-~~  
 17 ~~132;~~

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

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

21 ~~(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-~~  
 22 ~~137;~~

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

24 ~~(f)(b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-~~  
 25 ~~2329, 15-31-161, and 15-31-162; AND~~

26 ~~(C) THE CREDIT FOR PROPERTY TO RECYCLE OR MANUFACTURE USING RECYCLED MATERIAL PROVIDED FOR IN~~  
 27 ~~TITLE 15, CHAPTER 32, PART 6.~~

28 (4) The following tax credits ~~credit for unlocking state lands provided for in 15-30-2380~~ FOLLOWING TAX

1 CREDITS must be reviewed during the biennium commencing July 1, 2025::

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

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

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

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

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

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

8 (A) THE CREDIT FOR PRESERVATION OF HISTORIC BUILDINGS PROVIDED FOR IN 15-30-2342 AND 15-31-151;

9 AND

10 (B) THE CREDIT FOR UNLOCKING STATE LANDS PROVIDED FOR IN 15-30-2380.

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

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

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

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

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

16 ~~(e)~~(a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357

17 and 15-31-173;

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

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

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

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

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

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

- 1 (d) the timing of costs and benefits of the credit and how long the credit is effective;
- 2 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
- 3 elimination outweigh adverse impacts; and
- 4 (f) the extent to which benefits of the credit affect the larger economy."

5

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

7 **"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit**

8 **-- deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-

9 2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable

10 gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum

11 credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The

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

13 ~~(2) The credit allowed under this section may not be claimed by an individual taxpayer if the taxpayer~~

14 ~~has included the full amount of the contribution upon which the amount of the credit was computed as a~~

15 ~~deduction under 15-30-2131(1) or 15-30-2152(2).~~

16 ~~(3)(2)~~ There is no carryback or carryforward of the credit permitted under this section, and the credit

17 must be applied to the tax year in which the contribution is made.

18 ~~(4)(3)~~ If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

19 (a) include as income the amount deducted in any prior year that is attributable to the charitable gift to

20 the extent that the deduction reduced the taxpayer's individual income tax or corporate income tax; and

21 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit

22 allowed in the tax year in which the credit was taken. (Terminates December 31, 2025--secs. 1 through 15, Ch.

23 254, L. 2019.)"

24

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

26 **"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified**

27 **endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the

28 credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright

1 gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the  
 2 estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax  
 3 purposes. The maximum amount of credit that a beneficiary may claim is \$10,000, ~~subject to the limitation in~~  
 4 ~~15-30-2328(2)~~, and the credit must be claimed in the year in which the contribution is made. The credit may not  
 5 be carried forward or carried back. (Terminates December 31, 2025--secs. 1 through 15, Ch. 254, L. 2019.)"

6

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

8 **"15-30-2393. Election to deposit refund to education savings or ABLE account.** Each individual  
 9 taxpayer who is required to file an income tax return under Title 15, chapter 30, may elect to directly deposit a  
 10 refund from the return to a Montana family education savings program account provided for in Title 15, chapter  
 11 62, part 1, a Montana achieving a better life experience program account provided for in Title 53, chapter 25,  
 12 part 1, or an account for similar programs established and maintained by another state. In order to make the  
 13 election the taxpayer must be eligible to claim an exclusion from ~~adjusted-gross~~ Montana taxable income for the  
 14 contribution as provided in ~~15-30-2140~~ [section 1]. The department may prescribe additional forms and require  
 15 the taxpayer to provide sufficient information for the proper administration of the deposit requirement."

16

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

18 **"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions  
 19 apply:

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

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

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

27 (ii) an officer, employee, or elected public official of the United States, the state of Montana, or any  
 28 political subdivision of the United States or Montana or any agency or instrumentality of the United States, the



1 state of Montana, or a political subdivision of the United States or Montana;

2 (iii) an officer of a corporation;

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

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

6 (3) "Employer" means:

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

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

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

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

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

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

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

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

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

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

24 (b) The term does not include:

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

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

28 ~~(iii) unemployment compensation, including supplemental unemployment compensation treated as~~

1 ~~wages under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income~~  
 2 ~~as provided in 15-30-2101;~~

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

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

5

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

7 **"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to

8 tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year,

9 through employer withholding, as provided in 15-30-2502, through payment of estimated tax in four

10 installments, as provided in subsection (2) of this section, or through a combination of employer withholding and

11 estimated tax payments, at least:

12 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or

13 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding

14 tax year was a period of 12 months and if the individual filed a return for the tax year.

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

16 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than  
 17 \$500 after reductions for credits and withholding;

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

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

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

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

26 (a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on  
 27 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

1 (b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on  
2 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

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

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

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

18 (b) For any required installment, the annualized income installment is the applicable percentage

1 described in subsection (4)(c) applied to the tax computed on the basis of annualized Montana taxable income  
 2 in the tax year for the months ending before the due date for the installment less the total amount of any prior  
 3 required installments for the tax year.

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

Required Installment	Applicable Percentage
First	22.5%
Second	45%
Third	67.5%
Fourth	90%

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

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

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

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

22 ~~(d) For a married taxpayer filing separately on the same form, the interest provided for in subsection~~  
 23 ~~(5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on~~

1 ~~the taxpayer's return.~~

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

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

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

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

11 (6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66  
12 2/3% of the taxpayer's gross income, ~~as defined in 15-30-2104~~ determined for federal income tax purposes,  
13 from farming or ranching operations, or both.

14 (7) The department shall promulgate rules governing reasonable extensions of time for paying the  
15 estimated tax. An extension may not be for more than 6 months."  
16

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

18 **"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits --inflation**  
19 **adjustment.** (1) ~~(a) For both resident and nonresident taxpayers, each~~ If required to file a federal income tax  
20 return pursuant to the Internal Revenue Code, each individual, including each nonresident with Montana source  
21 income, or each estate or trust shall file a return ~~married couple not filing a joint return and having a gross~~  
22 ~~income for the tax year of more than the maximum standard deduction for that filing status, as determined in~~  
23 ~~15-30-2132, is liable for a return to be filed on forms and according to rules that the department may prescribe.~~  
24 ~~The gross income amounts referred to in this subsection (1) must be increased by the personal exemption~~  
25 ~~allowance determined in 15-30-2114 for each additional personal exemption allowance that the taxpayer is~~  
26 ~~entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).~~

27 (b) A taxpayer that is not required to file a federal income tax return shall file a Montana return if the  
28 taxpayer has Montana taxable income after taking into consideration the additions and subtractions to federal

1 taxable income in [section 1].

2 ~~(2) In accordance with instructions set forth by the department, each taxpayer who is married and~~  
 3 ~~living with a husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with~~  
 4 ~~the husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return~~  
 5 ~~is made, the tax must be computed on the aggregate taxable income and, subject to 15-30-2646, the liability~~  
 6 ~~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~~  
 7 ~~separate returns after the time for filing the return of either has expired unless the department consents.~~

8 ~~(3)(2)~~ If a taxpayer is unable to make the taxpayer's own return, the return must be made by an  
 9 authorized agent or by a guardian or other person charged with the care of the person or property of the  
 10 taxpayer.

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

19 ~~(5)(4)~~ If the department determines that the amount of tax due is greater than the amount of tax  
 20 computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-  
 21 30-2642 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

22 ~~(6)(5)~~ Individual income tax forms distributed by the department for each tax year must contain  
 23 instructions and tables based on the ~~adjusted base year~~ Montana income tax structure for that tax year."

24  
 25 **Section 20.** Section 15-30-2605, MCA, is amended to read:  
 26 **"15-30-2605. Revision of return by department -- statute of limitations -- examination of records**  
 27 **and persons.** (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect  
 28 incorrect, it may revise the return.

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

5           (3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be  
6 determined by the department within 3 years after the return was filed, regardless of whether the return was  
7 filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return  
8 due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last  
9 day prescribed for filing.

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

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

20

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

22           **"15-30-2606. Tolling of statute of limitations.** The running of the statute of limitations provided for  
23 under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of  
24 federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has  
25 instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1  
26 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619, the statute of  
27 limitations does not apply until 3 years from the date the federal changes become final or the amended federal  
28 return was filed. If the taxpayer omits from federal gross income, as defined and described in section 61 of the

1 Internal Revenue Code, 26 U.S.C. 61, an amount properly includable as federal gross income and the amount  
 2 is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does  
 3 not apply for 2 additional years from the time specified in 15-30-2605."

4

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

6 **"15-30-2618. (Temporary) Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-  
 7 106, 17-7-111, and subsections ~~(7) through (9)~~ (6) through (8) of this section, in accordance with a proper  
 8 judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

- 9 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
 10 return required under this chapter or any other information secured in the administration of this chapter; or  
 11 (b) any federal return or federal return information disclosed on any return or report required by rule of  
 12 the department or under this chapter.

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

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

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

21 (3) This section does not prohibit:

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

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

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



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

6           ~~(5)~~(4) Reports and returns must be preserved for at least 3 years and may be preserved until the  
 7 department orders them to be destroyed.

8           ~~(6)~~(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If  
 9 the offender is an officer or employee of the state, the offender must be dismissed from office or employment  
 10 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in  
 11 the case of a former officer or employee, for 1 year after conviction.

12           ~~(7)~~(6) This section may not be construed to prohibit the department from providing taxpayer return  
 13 information and information from employers' payroll withholding reports to:

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

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

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

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

28           ~~(9)~~(8) On written request to the director or a designee of the director, the department shall furnish:

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

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

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

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

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

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

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

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

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

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

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

4           **15-30-2618. (Effective July 1, 2025, on occurrence of contingency) Confidentiality of tax**  
5 **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  
6 section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or  
7 make known in any manner:

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

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

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

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

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

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

20           (3) This section does not prohibit:

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

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

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

28           ~~(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to~~

1 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
 2 separately on the same return. The information being provided to the spouse or reported on the return,  
 3 including subsequent adjustments or amendments to the return, must be treated in the same manner as if the  
 4 spouse and the taxpayer filed the return using a joint filing status for that tax year.

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

7 ~~(6)~~(5) Any offense against subsections (1) through ~~(5)~~ (4) is punishable by a fine not exceeding \$500.  
 8 If the offender is an officer or employee of the state, the offender must be dismissed from office or employment  
 9 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in  
 10 the case of a former officer or employee, for 1 year after conviction.

11 ~~(7)~~(6) This section may not be construed to prohibit the department from providing taxpayer return  
 12 information and information from employers' payroll withholding reports to:

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

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

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

25 ~~(9)~~(8) On written request to the director or a designee of the director, the department shall furnish:

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

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

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

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

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

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

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

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

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

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

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

28

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

2           "**15-30-3003. (Temporary) Montana farm and ranch risk management account -- deposits --**  
 3 **exclusion from income.** (1) An individual or a family farm corporation engaged in an eligible agricultural  
 4 business may ~~create~~ hold a Montana farm and ranch risk management account that is composed of  
 5 contributions that were made to the account prior to January 1, 2022, as provided in this part, to use as a risk  
 6 management tool for the individual's or family farm corporation's agricultural business. The number of risk  
 7 management accounts that may be ~~created~~ held is limited to one for each individual or family farm corporation.

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

12           ~~(a) during the a tax year; or~~

13           ~~(b) for a specific tax year if it is made within 3&#8201;1/2 months after the close of the tax year~~  
 14 beginning before January 1, 2022.

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

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

20

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

22           "**15-30-3004. (Temporary) Montana farm and ranch risk management account -- creation --**  
 23 **administration.** (1) A Montana farm and ranch risk management account is a trust created or organized in the  
 24 state for the exclusive benefit of the taxpayer. The account trustee must be a financial institution, other than an  
 25 investment adviser, as defined in 15-62-103, supervised by the United States or by the state of Montana. The  
 26 trust must be created by written instrument.

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

1           ~~(3)~~(2) The trustee shall report to the department if a portion of a deposit is distributed within 6 months  
2 of the date of deposit.

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

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

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

8

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

10           **"15-30-3005. (Temporary) Montana farm and ranch risk management account -- distributions.**

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

12           (2) Distributions from an account:

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

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

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

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

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

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

27           (ii) The 5-year eligibility period for withdrawal of a deposit without penalty is the due date, including  
28 extensions, for the filing of a tax return required by this chapter or, if the taxpayer files earlier, the date the

1 taxpayer files the return for the tax year in which the fifth anniversary of the deposit occurs.

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

5

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

7 **"15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a  
8 composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder,  
9 member, or other owner who:

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

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

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

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

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

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

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

27 (4) The electing entity:

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



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

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

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

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

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

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

15 (a) \_\_15-30-2103 and 15-30-2104;

16 (b) \_\_15-31-101 and 15-31-121; and

17 (c) \_\_15-31-403.

18 (7) The department may adopt rules that are necessary to implement and administer this section."  
 19

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

21 **"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company**  
 22 **credit for contribution to qualified endowment -- recapture of credit -- deduction included as income. (1)**

23 A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined  
 24 in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or  
 25 business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C.  
 26 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be  
 27 attributed to shareholders, partners, or members of a limited liability company in the same proportion used to  
 28 report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax

1 purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or  
 2 a member of a limited liability company may claim in a year is \$10,000, ~~subject to the limitations in 15-30-~~  
 3 ~~2328(2)~~. The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no  
 4 carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax  
 5 year in which the contribution is made.

6 (2) (a) If during any tax year a charitable gift is recovered by the small business corporation,  
 7 partnership, or limited liability company, the entity shall include as income the amount deducted in any prior  
 8 year that is attributable to the charitable gift.

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

12

13 **SECTION 28. SECTION 15-31-163, MCA, IS AMENDED TO READ:**

14 **"15-31-163. Capital gain exclusion from sale of mobile home park.** (1) The following amount of  
 15 the gain recognized from the sale or exchange of a mobile home park as defined in 70-33-103 is excluded from  
 16 ~~adjusted gross~~ Montana taxable income or gross income under chapter 30 or 31:

17 (a) 100% of the recognized gain for a mobile home park with 50 or fewer lots; or

18 (b) 50% of the recognized gain for a mobile home park with more than 50 lots.

19 (2) To qualify for the exclusion under this section, the sale must be made to:

20 (a) a tenants' association or a mobile home park residents' association;

21 (b) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code that purchases a  
 22 mobile home park on behalf of tenants' association or mobile home park residents' association;

23 (c) a county housing authority created under Title 7, chapter 15, part 21; or

24 (d) a municipal housing authority created under Title 7, chapter 15, parts 44 and 45.

25 (3) A corporation, an individual, a partnership, an S. corporation, or a disregarded entity qualifies for  
 26 the exclusion under this section. If the exclusion allowed under this section is taken by a partnership, an S.  
 27 corporation, or a disregarded entity, the exclusion must be attributed to shareholders, partners, or other owners  
 28 using the same proportion used to report the partnership's, S. corporation's, or disregarded entity's income or

1 loss for Montana income tax purposes.

2 (4) For the purpose of this section, "tenants' association" or "mobile home park residents' association"  
3 means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of  
4 eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the  
5 approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

6 (5) Property subject to an income or corporate tax exclusion under this section is not eligible for a  
7 property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park."  
8

9 **Section 29.** Section 15-31-1007, MCA, is amended to read:

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

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

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

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

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

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

- 1 (i) 25% of the compensation paid per production or season of a television series to each crew  
2 member or production staff member who is a resident, not to exceed a \$150,000 credit per person;
- 3 (ii) 15% of the compensation paid per production or season of a television series to each crew member  
4 or production staff member who is not a resident but for whom Montana income taxes have been withheld, not  
5 to exceed a \$150,000 credit per person;
- 6 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to  
7 each actor, director, producer, or writer for whom Montana income taxes have been withheld;
- 8 (iv) 30% of compensation paid per production or season of a television series to a student enrolled in a  
9 Montana college or university who works on the production for college credit. The credit may not exceed  
10 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the  
11 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.
- 12 (v) an additional 10% of payments made to a Montana college or university for stage rentals,  
13 equipment rentals, or location fees for filming on campus;
- 14 (vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for  
15 a production that rents a studio for 20 days or more;
- 16 (vii) an additional 5% for production expenditures made in an underserved area; and
- 17 (viii) an additional 5% of the base investment in the state if the state-certified production includes a  
18 Montana screen credit furnished by the state as provided in 15-31-1004(7).
- 19 (4) If one production company makes a production expenditure to hire another production company to  
20 produce a project or contribute elements of a project for pay, the hired production company is considered a  
21 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures  
22 that are incurred in the state.
- 23 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-  
24 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has  
25 a tax liability less than the amount of the credit.
- 26 (6) A taxpayer claiming a credit shall include with the tax return the following information:
- 27 (a) the amount of tax credit claimed and transferred for the tax year;
- 28 (b) the amount of the tax credit previously claimed or transferred;

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

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

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

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

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

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

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

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

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

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

20 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has  
21 included the amount of the production expenditure or compensation on which the amount of the credit was  
22 computed in determining Montana taxable income under [section 1] or as a deduction under ~~15-30-2134~~ or 15-  
23 31-114."

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

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**Section 31.** Section 15-32-106, MCA, is amended to read:

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

**SECTION 32. SECTION 15-32-610, MCA, IS AMENDED TO READ:**

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

**Section 33.** Section 15-61-202, MCA, is amended to read:

**"15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, ~~the amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an account and all interest or other income on that~~ the principal that was contributed to a medical care savings account prior to January 1, 2022, may be excluded from the ~~adjusted gross~~ Montana taxable income of the employee or account holder and ~~are~~ is exempt from taxation, in accordance with ~~45-30-2110(2)(j)~~ [section1], as long as the principal and interest or other income is contained within the account, distributed to an immediate family member as provided in subsection (6), or withdrawn only for payment of eligible medical expenses or for paying the expenses of administering the account. Any part of the principal or income, or both, withdrawn from an

1 account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the  
 2 account and used for a purpose other than an eligible medical expense or for paying the expenses of  
 3 administering the account.

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

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

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

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

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

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

15 ~~(4)(3)~~ The transfer of money in an account owned by one employee or account holder to the account  
 16 of another employee or account holder who is an immediate family member of the first employee or account  
 17 holder does not subject either employee or account holder to tax liability under this section. Amounts contained  
 18 within the account of the receiving employee or account holder are subject to the requirements and limitations  
 19 provided in this section.

20 ~~(5)(4)~~ The employee or account holder who establishes the account is the owner of the account. An  
 21 employee or account holder may withdraw money in an account and deposit the money in another account with  
 22 a different or with the same account administrator without incurring tax liability.

23 ~~(6)(5)~~ Within 30 days of being furnished proof of the death of the employee or account holder, the  
 24 account administrator shall distribute the principal and accumulated interest or other income in the account to  
 25 the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-  
 26 223. An immediate family member who receives the distribution provided for in this subsection becomes the  
 27 account holder and may:

28 (a) within 1 year of the death of the employee or account holder from which the account was

1 inherited, withdraw funds for eligible medical expenses incurred by the deceased; and

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

5 **Section 34.** Section 15-61-203, MCA, is amended to read:

6 **"15-61-203. Withdrawal of funds from account for purposes other than eligible medical**

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

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

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

23 **Section 35.** Section 15-62-103, MCA, is amended to read:

24 **"15-62-103. Definitions.** As used in this chapter, the following definitions apply:

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

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



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

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

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

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

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

15 ~~(7)(8)~~ "Financial institution" means any bank, commercial bank, national bank, savings bank, savings  
16 and loan association, credit union, insurance company, trust company, investment adviser, or other similar  
17 entity that is authorized to do business in this state.

18 ~~(8)(9)~~ "Higher education institution" means an eligible educational institution as defined in section  
19 529~~(e)(5)~~ of the Internal Revenue Code, 26 U.S.C. 529~~(e)(5)~~.

20 ~~(9)(10)~~ — "Investment products" means, without limitation, certificates of deposit, savings accounts  
21 paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

22 ~~(10)(11)~~ "Member of the family" means, with respect to a designated beneficiary, a member of the  
23 family of the designated beneficiary as defined in section 529~~(e)(2)~~ of the Internal Revenue Code, 26 U.S.C.  
24 529~~(e)(2)~~.

25 ~~(11)(12)~~ "Nonqualified withdrawal" means a withdrawal from an account that is not:

26 (a) a qualified withdrawal;

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

1 (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described  
 2 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  
 3 is received by the designated beneficiary; or

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

5 ~~(12)~~(13) "Participating trust agreement" means an agreement between the board, as trustee and as  
 6 administrator of the program, and the account owner that creates a trust interest in the trust and provides for  
 7 participation in the program.

8 ~~(13)~~(14) "Program" means the family education savings program established pursuant to 15-62-201.  
 9 The program must be structured to permit the long-term accumulation of savings that can be used to finance all  
 10 or a share of the costs of higher education.

11 ~~(14)~~(15) "Qualified higher education expenses" means ~~qualified higher education expenses as defined~~  
 12 ~~in any education expense permitted by section 529(e)(3) of the Internal Revenue Code, 26 U.S.C. 529(e)(3).~~

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

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

17 ~~(16)~~(18) "Trust" means the family education savings trust established by 15-62-301.

18 ~~(17)~~(19) "Trustee" means the board in its capacity as trustee of the trust.

19 ~~(18)~~(20) "Trust interest" means an account owner's interest in the trust created by a participating trust  
 20 agreement and held for the benefit of a designated beneficiary."

21

22 **Section 36.** Section 15-62-201, MCA, is amended to read:

23 **"15-62-201. Program requirements -- application -- establishment of account -- qualified and**  
 24 **nonqualified withdrawal -- penalties.** (1) The program must be operated through use of accounts in the trust  
 25 established by account owners. Payments to the trust for participation in the program must be made by account  
 26 owners pursuant to participating trust agreements. A person who wishes to participate in the program and open  
 27 an account into which funds will be deposited to pay the qualified higher education expenses of a designated  
 28 beneficiary shall:

- 1 (a) enter into a participating trust agreement pursuant to which an account will be established as a  
2 participating trust of the trust;
- 3 (b) complete an application on the form prescribed by the board that includes:  
4 (i) the name, address, and social security number or employer identification number of the contributor;  
5 (ii) the name, address, and social security number of the account owner if the account owner is not the  
6 contributor;  
7 (iii) the name, address, and social security number of the designated beneficiary;  
8 (iv) the certification relating to no excess contributions adopted by the board pursuant to 20-25-902;  
9 (v) the designation of the financial institution with which the funds in the participating trust will be  
10 invested; and  
11 (vi) any other information required by the board;
- 12 (c) pay the one-time application fee established by the board;  
13 (d) make the minimum contribution required by the board or by opening an account; and  
14 (e) designate the type of account to be opened if more than one type of account is offered.
- 15 (2) A person shall make contributions to an opened account in cash.  
16 (3) An account owner may withdraw all or part of the balance from an account under rules prescribed  
17 by the board. The rules must be used to help the board or program manager to determine if a withdrawal is a  
18 nonqualified withdrawal or a qualified withdrawal to the extent that the board concludes that it is necessary for  
19 the board or program manager to make that determination. The rules may require that:
- 20 (a) account owners seeking to make a qualified withdrawal or other withdrawal that is not a  
21 nonqualified withdrawal shall provide certifications, copies of bills for qualified higher education expenses, or  
22 other supporting material;
- 23 (b) qualified withdrawals from an account be made only by a check payable jointly to the designated  
24 beneficiary and a higher education institution; and  
25 (c) withdrawals not meeting certain requirements be treated as nonqualified withdrawals by the  
26 program manager, and if these withdrawals are not nonqualified withdrawals, the account owner shall seek  
27 refunds of penalties directly from the board.
- 28 (4) If the board determines that it is required to impose a penalty on nonqualified withdrawals for the

1 program to qualify as a qualified state tuition program or a qualified tuition program under section 529 of the  
2 Internal Revenue Code, 26 U.S.C. 529, the board may impose a penalty in an amount equal to 10% of the  
3 portion of the proposed withdrawal that would constitute income as determined in accordance with section 529  
4 of the Internal Revenue Code, 26 U.S.C. 529. The penalty must be withheld and paid to the board for use in  
5 operating and marketing the program and for state student financial aid.

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

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

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

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

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

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

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

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

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

27 (10) A contributor to, account owner of, or designated beneficiary of an account may not direct the  
28 investment of any contributions to any account or the earnings generated by the account in violation of section

1 529 of the Internal Revenue Code, 26 U.S.C. 529, and may not pledge the interest of an account or use an  
 2 interest in an account as security for a loan.

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

6 (12) The financial institution shall provide statements to each account owner whose participating trusts  
 7 are invested with the institution at least once each year within 31 days after the 12-month period to which they  
 8 relate. The statement must identify the contributions made during a preceding 12-month period, the total  
 9 contributions made through the end of the period, the value of the account as of the end of this period,  
 10 distributions made during this period, and any other matters that the board requires be reported to the account  
 11 owner.

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

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

18

19 **Section 37.** Section 15-62-206, MCA, is amended to read:

20 **"15-62-206. Limitations.** (1) This chapter may not be construed to:

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

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

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

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

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

- 3 (a) the return of any amounts contributed to an account;  
4 (b) the rate of interest or other return on any account; or  
5 (c) the payment of interest or other return on any account.

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

10

11 **Section 38.** Section 15-62-207, MCA, is amended to read:

12 "**15-62-207. Deductions for contributions.** An individual who contributes to one or more accounts in  
13 a tax year is entitled to reduce the individual's adjusted gross income, in accordance with ~~15-30-2110(11)~~  
14 [section 1], by the total amount of the contributions, but not more than \$3,000. The contribution must be made  
15 to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the  
16 contributor's child or stepchild is a Montana resident."

17

18 **Section 39.** Section 15-62-208, MCA, is amended to read:

19 "**15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax  
20 at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that  
21 ~~reduced adjusted gross income under 15-30-2110(11)~~ were deducted from income in calculating Montana  
22 individual income taxes.

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

1 Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be  
 2 treated as first derived from contributions that reduced ~~adjusted gross income~~ Montana individual income taxes,  
 3 to the extent of the contributions, and then to contributions that did not reduce ~~adjusted gross income~~ Montana  
 4 individual income taxes.

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

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

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

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

22 (a) April 30, 2001; or

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

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

26

27 **Section 40.** Section 15-63-202, MCA, is amended to read:

28 **"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of

1 principal provided for in subsection (2) contributed ~~annually~~ prior to January 1, 2022, by an account holder to an  
 2 account and all interest or other income on the principal that was contributed prior to January 1, 2022, may be  
 3 excluded from ~~the adjusted gross~~ Montana taxable income of the account holder and is exempt from taxation,  
 4 in accordance with ~~15-30-2110(2)(k)~~ [section 1], as long as the principal and interest or other income is  
 5 contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by  
 6 a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be  
 7 excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a  
 8 purpose other than for eligible costs for the purchase of a single-family residence.

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

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

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

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

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

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

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



1 ~~exemption under this section.~~

2 ~~(6)(3)~~ The account holder who establishes the account, individually or jointly, is the owner of the  
3 account. An account holder may withdraw money in an account and deposit the money in another account with  
4 a different account administrator or with the same account administrator without incurring tax liability.

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

10 ~~(8)(5)~~ The amount of a disbursement of any assets of a first-time home buyer savings account  
11 pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an  
12 account holder does not subject the account holder to tax liability.

13 ~~(9)(6)~~ Within 30 days of being furnished proof of the death of the account holder, the account  
14 administrator shall distribute the principal and accumulated interest or other income in the account to the estate  
15 of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

16

17 **Section 41.** Section 19-2-1004, MCA, is amended to read:

18 **"19-2-1004. Exemption from taxes and legal process.** (1) Except as provided in 19-2-907, 19-2-  
19 909, and subsection (2) of this section, the right of a person to any benefit or payment from a retirement system  
20 or plan and the money in the system or plan's pension trust fund is not:

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

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

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

24 ~~(ii) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as~~  
25 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

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

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

1 entitled to distribution of the benefit or payment, to:

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

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

5

6 **Section 42.** Section 19-17-407, MCA, is amended to read:

7 **"19-17-407. Exemption from ~~taxation and legal process.~~** (1) ~~The amount determined pursuant to~~  
8 ~~15-30-2110(2)(c) of benefits received under this part is exempt from state, county, and municipal taxation.~~

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

11 ~~(3)~~(2) The right of a person to any benefit or payment and the money in the plan's pension trust fund  
12 associated with that benefit or payment is subject, once the person is entitled to distribution of the benefit or  
13 payment, to:

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

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

17

18 **Section 43.** Section 19-18-612, MCA, is amended to read:

19 **"19-18-612. Protection of benefits from legal process and ~~taxation -- nonassignability.~~** ~~(4)~~  
20 Except for execution or withholding for the payment of child support or for the payment of spousal support for a  
21 spouse or former spouse who is the custodial parent of the child, payments made or to be made under this  
22 chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a  
23 pension may not assign the right, and the association and trustees may not recognize any assignment or pay  
24 over any sum assigned.

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

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

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

8

9           **Section 45.** Section 19-20-706, MCA, is amended to read:

10           **"19-20-706. Exemption from taxation and legal process.** Except as provided in 19-20-305 and 19-  
 11 20-306, the retirement allowances or any other benefits accrued or accruing to any person under the provisions  
 12 of the retirement system and the accumulated contributions and cash and securities in the various funds of the  
 13 retirement system are:

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

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

16 or

17           ~~(b) a refund paid under 19-20-603 of a member's contributions picked up by an employer after June~~  
 18 30, 1985, as provided in 19-20-602;

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

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

22

23           **Section 46.** Section 19-21-212, MCA, is amended to read:

24           **"19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or  
 25 withholding for the payment of child support or for the payment of spousal support for a spouse or former  
 26 spouse who is the custodial parent of the child, contracts, benefits, and contributions under the university  
 27 system retirement program and the earnings on the contributions are:

28           (1) ~~except for a retirement allowance received in excess of the amount determined pursuant to 15-30-~~

- 1    ~~2110(2)(e)~~, exempt from any ~~state~~, county, or municipal tax;
- 2           (2) not subject to execution, garnishment, attachment, or other process;
- 3           (3) not covered or assessable by an insurance guaranty association; and
- 4           (4) unassignable except as specifically provided in the contracts."

5

6           **Section 47.** Section 20-4-503, MCA, is amended to read:

7           **"20-4-503. Critical quality educator shortage areas -- impacted schools.** (1) The board of public  
8 education, in consultation with the office of public instruction, shall:

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

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

17          (2) The board of public education shall publish by December 1 an annual report listing the critical  
18 quality educator shortage areas under 20-4-502(1)(a) in each impacted school. The report must apply to the  
19 school year that begins July 1 following the publication of the report in order to assist recruitment by impacted  
20 schools. For the school year beginning July 1, 2019, eligibility for the program based on the criteria under 20-4-  
21 502(1)(a) must be governed by the report adopted by the board of public education by December 1, 2019.

22          (3) A quality educator working at an impacted school in a critical quality educator shortage area is  
23 eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of  
24 application in accordance with the eligibility and award criteria established under this part. If a quality educator  
25 is eligible for loan assistance and remains employed in the same impacted school or another impacted school  
26 within the same school district and in the same critical quality educator shortage area for which the quality  
27 educator was originally eligible, the quality educator remains eligible for up to 3 years of state-funded loan  
28 repayment assistance and an additional 1 year of loan repayment assistance funded by the impacted school or

1 the district under which the impacted school is operated pursuant to 20-4-504(2). ~~Both state-funded and locally~~  
 2 ~~funded loan repayment assistance under this section is exempt from taxation as specified in 15-30-2110(14)."~~

3

4 **Section 48.** Section 20-25-902, MCA, is amended to read:

5 **"20-25-902. Board -- powers and duties.** (1) The board shall:

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

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

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

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

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

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

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

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

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

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

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

- 1 (iv) requirements that any excess balances with respect to a designated beneficiary be promptly  
2 withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section;  
3 (g) adopt procedures as necessary to implement Title 15, chapter 62;  
4 (h) serve as trustee of the family education savings trust established in 15-62-301;  
5 (i) enter into participating trust agreements with account owners; and  
6 (j) maintain the program on behalf of the state as required by section 529 of the Internal Revenue  
7 Code, 26 U.S.C. 529.

8 (2) The definitions in 15-62-103 apply to this section."  
9

10 **Section 49.** Section 33-27-101, MCA, is amended to read:

11 "**33-27-101. Short title.** Sections 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this chapter  
12 may be cited as the "Independent Liability Fund Act"."  
13

14 **Section 50.** Section 33-27-102, MCA, is amended to read:

15 "**33-27-102. Purpose.** The purpose of 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this  
16 chapter is to create a means by which small businesses operating in Montana may establish independent  
17 liability funds to set aside assets or make investments to meet any liability claims that might be made against  
18 the small businesses by third parties."  
19

20 **Section 51.** Section 33-27-103, MCA, is amended to read:

21 "**33-27-103. Definitions.** As used in 15-30-2118, ~~15-30-2144~~, 15-31-117, 15-31-118, and this  
22 chapter, the following definitions apply:

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

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

28 (3) "Liability claim" means any legal or extralegal action by a third party asserting a right to

1 compensation for a wrong done to it by a small business with an independent liability fund.

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

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

7

8 **Section 52.** Section 37-4-104, MCA, is amended to read:

9 **"37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by**  
10 **personal representative -- restrictions.** (1) For the purpose of selling or otherwise disposing of a deceased or  
11 a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to  
12 practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal  
13 representative of a disabled dentist may contract with a dentist to manage the dental practice at an  
14 establishment where dental operations, oral surgery, or dental services are provided.

15 (2) A personal representative may not:

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

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

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

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

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

25 (3) For the purposes of this section:

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

1 (b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in 15-~~  
 2 ~~30-2140~~ means unable to engage in any substantial gainful activity by reason of any medically determined  
 3 physical or mental impairment lasting or expected to last at least 12 months; and

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

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

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

9 (b) the personal representative of the disabled dentist files a verified copy of a document signed by a  
 10 licensed physician that attests to the dentist's disability."  
 11

12 **Section 53.** Section 50-51-114, MCA, is amended to read:

13 **"50-51-114. Emergency lodging program -- definitions.** (1) There is an emergency lodging  
 14 program for licensed establishments located in Montana to assist designated charitable organizations in  
 15 providing short-term lodging in Montana to individuals and families displaced from their residences.

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

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

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

22 (3) ~~Except as provided in subsection (8), establishments participating in the emergency lodging~~  
 23 ~~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~~  
 24 ~~each individual or family per calendar year.~~

25 (4)(3) Emergency lodging provided under this section must be provided at no cost to the individual or  
 26 the referring organization.

27 (5)(4) Participating establishments may offer lodging based on availability of rooms.

28 (6)(5) The department shall maintain a registry of designated charitable organizations and shall



1 provide a list of approved organizations to establishments on request. The department shall seek comment  
 2 from appropriate statewide nonprofit organizations when developing and updating the registry.

3 ~~(7)~~(6) For the purposes of 50-51-115 and this section, "designated charitable organization" means an  
 4 organization approved by the department to make referrals for emergency lodging.

5 ~~(8) The tax credit referred to in subsections (2) and (3) does not apply to the costs of providing~~  
 6 ~~lodging to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or~~  
 7 ~~5191 and who receives financial assistance for temporary housing under 42 U.S.C. 5174."~~

8

9 **Section 54.** Section 53-2-211, MCA, is amended to read:

10 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the  
 11 unemployment compensation program of the department of labor and industry all information contained in its  
 12 files and records pertaining to eligibility of persons for medicaid, cash assistance and nonfinancial assistance,  
 13 as defined in 53-2-902, and food stamps. The information made available must include information on the  
 14 amount and source of an applicant's income. The information received from the department must be used by  
 15 the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under  
 16 the unemployment compensation program of the state and for no other purpose.

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

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

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

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

7

8 **Section 55.** Section 53-25-117, MCA, is amended to read:

9 **"53-25-117. Deductions for contributions.** An individual who contributes to one or more accounts  
10 established pursuant to this chapter in a tax year is entitled to reduce the individual's ~~adjusted gross Montana~~  
11 taxable income, in accordance with ~~15-30-2110(12)~~ [section 1], by the total amount of the contributions, but not  
12 more than \$3,000, if the individual is:

- 13 (1) the designated beneficiary;  
14 (2) the spouse of the designated beneficiary; or  
15 (3) a parent, grandparent, sibling, or child related to the designated beneficiary by blood, marriage, or  
16 legal adoption."

17

18 **Section 56.** Section 53-25-118, MCA, is amended to read:

19 **"53-25-118. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax  
20 at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that  
21 ~~reduced adjusted gross income under 15-30-2110(12)~~ were deducted from income in calculating Montana  
22 individual income taxes.

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

1 Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be  
 2 treated as first derived from contributions that reduced ~~adjusted gross income~~ Montana individual income taxes,  
 3 to the extent of those contributions, and then to contributions that did not reduce ~~adjusted gross income~~  
 4 Montana individual income taxes.

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

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

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

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

24 (6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a  
 25 nonqualified withdrawal."  
 26

27 **Section 57.** Section 67-11-303, MCA, is amended to read:

28 **"67-11-303. Bonds and obligations.** (1) An authority may borrow money for any of its corporate

1 purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms  
2 that it may determine, payable out of any revenue of the authority, including revenue derived from:

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

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

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

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

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

27 (6) Subject to the conditions stated in this subsection, the governing body of any municipality having a  
28 population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by

1 an authority in which the municipality is included, may by resolution covenant that in the event that at any time  
 2 all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest  
 3 then due, it shall, subject to 15-10-420, levy a general tax upon all of the taxable property in the municipality for  
 4 the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to  
 5 occur within 1 year for the payment of principal and interest due on the bonds, it shall, subject to 15-10-420,  
 6 levy a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the  
 7 taxes are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that  
 8 more than one municipality having a population in excess of 10,000 is included in an authority issuing bonds  
 9 pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in  
 10 anticipation of, a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may  
 11 determine. The resolution must state the principal amount and purpose of the bonds and the substance of the  
 12 covenant respecting deficiencies. A resolution may not be effective until the question of its approval has been  
 13 submitted to the qualified electors of the municipality at a special election called for that purpose by the  
 14 governing body of the municipality and a majority of the electors voting on the question have voted in favor of  
 15 the resolution. The special election must be held in conjunction with a regular or primary election. The notice  
 16 and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation  
 17 bonds in Title 7, chapter 7, part 42, for an election called by cities and towns and as provided for county general  
 18 obligation bonds in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors  
 19 voting on the issue vote against approval of the resolution, the municipality may not make the covenant or levy  
 20 a tax for the payment of deficiencies pursuant to this section, but the municipality or authority may issue bonds  
 21 under this chapter payable solely from the sources referred to in subsection (1)."

22

23 **Section 58.** Section 70-9-803, MCA, is amended to read:

24 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is  
 25 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular  
 26 property:

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

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

1 (c) stock or other equity interest in a business association or financial organization, including a  
2 security entitlement under Title 30, chapter 8, 5 years after the earlier of:

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

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

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

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

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

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

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

1 (i) property distributable by a business association or financial organization in a course of dissolution,  
2 1 year after the property becomes distributable;

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

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

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

9 (m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes  
10 payable;

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

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

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

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

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

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

27 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner  
28 has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on

1    behalf of the holder with the holder concerning the property or the account in which the property is held and has  
2    not otherwise indicated an interest in the property. A communication with an owner by a person other than the  
3    holder or its representative who has not in writing identified the property to the owner is not an indication of  
4    interest in the property by the owner.

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

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

10          (b) owner-directed activity in the account in which the property is held, including a direction by the  
11   owner to increase, decrease, or change the amount or type of property held in the account;

12          (c) the making of a deposit to or withdrawal from an account in a financial organization; and

13          (d) the payment of a premium with respect to a property interest in an insurance policy; however, the  
14   application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance  
15   policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the  
16   beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash  
17   surrender value of a policy by the application of those provisions.

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

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

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

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

25          (7) For the purposes of this section, "inflation factor" means a number determined for each tax year  
26   by dividing the consumer price index for June of the previous tax year by the consumer price index for June  
27   2015."

28



1           **Section 59.** Section 75-2-103, MCA, is amended to read:

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

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

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

9           (3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend  
10 to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere  
11 with the enjoyment of life, property, or the conduct of business.

12           (4) "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           (5) "Board" means the board of environmental review provided for in 2-15-3502.

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

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

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

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

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

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

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

5 (i) generating electricity;

6 (ii) producing gas derived from coal;

7 (iii) producing liquid hydrocarbon products;

8 (iv) refining crude oil or natural gas;

9 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax  
10 incentive pursuant to Title 15, chapter 70, part 5; or

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

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

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

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

18 (11) "Hazardous waste" means:

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

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

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

25 (b) Incinerator does not include:

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

28 (ii) space heaters that burn used oil;

1 (iii) wood-fired boilers; or

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

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

6 (a) cultures and stocks of infectious agents;

7 (b) human pathological wastes;

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

9 (d) sharps;

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

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

13 and

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

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

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

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

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

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

27 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or  
28 private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the

1 federal government or an agency of the federal government, or any other legal entity and includes persons  
2 resident in Canada.

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

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

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

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

8 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.  
9 7661, et seq.;

10 (d) emits less than 50 tons per year of an air pollutant;

11 (e) emits less than a total of 75 tons per year of all air pollutants combined; and

12 (f) is not excluded from this definition under 75-2-108(3).

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

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

25

26 **Section 60.** Section 75-5-103, MCA, is amended to read:

27 **"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the  
28 following definitions apply:

1 (1) "Associated supporting infrastructure" means:

2 (a) electric transmission and distribution facilities;

3 (b) pipeline facilities;

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

5 (d) rail transportation;

6 (e) aqueducts and diversion dams;

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

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

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

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

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

16 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or  
17 other wastes, creating a hazard to human health.

18 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

19 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
20 decision is made, including information supporting its previous lists of water bodies that are threatened or  
21 impaired.

22 (b) The term does not mean new data to be obtained as a result of department efforts.

23 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
24 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant  
25 to 75-5-301(5)(c).

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

27 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and  
28 includes sewage systems and treatment works.

1 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
2 chemical, physical, biological, and other constituents that are discharged into state waters.

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

5 (i) generating electricity;

6 (ii) producing gas derived from coal;

7 (iii) producing liquid hydrocarbon products;

8 (iv) refining crude oil or natural gas;

9 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax  
10 incentive pursuant to Title 15, chapter 70, part 5; or

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

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

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

16 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971,  
17 whether or not those uses are included in the water quality standards.

18 (13) "High-quality waters" means all state waters, except:

19 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by  
20 the board's classification rules; and

21 (b) surface waters that:

22 (i) are not capable of supporting any one of the designated uses for their classification; or

23 (ii) have zero flow or surface expression for more than 270 days during most years.

24 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data  
25 shows that the water body or stream segment is failing to achieve compliance with applicable water quality  
26 standards.

27 (15) "Industrial waste" means a waste substance from the process of business or industry or from the  
28 development of any natural resource, together with any sewage that may be present.

1 (16) "Interested person" means a person who has a real property interest, a water right, or an  
2 economic interest that is or may be directly and adversely affected by the department's preliminary decision  
3 regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested  
4 authorization to degrade high-quality waters.

5 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one  
6 of its existing or future nonpoint sources or to natural background sources.

7 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a  
8 violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the  
9 maximum change that can occur from the best practicable condition in a surface water without causing a  
10 violation of the surface water quality standards.

11 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
12 city-county, or district board of health.

13 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
14 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and  
15 zinc.

16 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued  
17 by the department where water quality standards may be exceeded, subject to conditions that are imposed by  
18 the department and that are consistent with the rules adopted by the board.

19 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
20 determination that base numeric nutrient standards cannot be achieved because of economic impacts or  
21 because of the limits of technology. The term includes individual, general, and alternative nutrient standards  
22 variances in accordance with 75-5-313.

23 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
24 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other  
25 interested parties that will advise the department on the base numeric nutrient standards, the development of  
26 nutrient standards variances, and the implementation of those standards and variances together with  
27 associated economic impacts.

28 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,

1 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded  
2 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

3 (25) "Outstanding resource waters" means:

4 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
5 national wilderness areas as of October 1, 1995; or

6 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316  
7 and approved by the legislature.

8 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point  
9 source.

10 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
11 property affects the quality of the state water.

12 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
13 partnership, individual, or other entity and includes persons resident in Canada.

14 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited  
15 to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other  
16 floating craft, from which pollutants are or may be discharged.

17 (30) (a) "Pollution" means:

18 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters  
19 that exceeds that permitted by Montana water quality standards, including but not limited to standards relating  
20 to change in temperature, taste, color, turbidity, or odor; or

21 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
22 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
23 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other  
24 wildlife.

25 (b) The term does not include:

26 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
27 permit rules adopted by the board under this chapter;

28 (ii) activities conducted under this chapter that comply with the conditions imposed by the department



1 in short-term authorizations pursuant to 75-5-308;

2 (iii) contamination of ground water within the boundaries of an underground mine using in situ coal  
3 gasification and operating in accordance with a permit issued under 82-4-221.

4 (c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

5 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or  
6 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
7 surface water present.

8 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
9 wastes to an ultimate disposal point.

10 (33) "Standard of performance" means a standard adopted by the board for the control of the  
11 discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of  
12 the best available demonstrated control technology, processes, operating methods, or other alternatives,  
13 including, when practicable, a standard permitting no discharge of pollutants.

14 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
15 underground.

16 (b) The term does not apply to:

17 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

18 (ii) irrigation waters or land application disposal waters when the waters are used up within the  
19 irrigation or land application disposal system and the waters are not returned to state waters.

20 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
21 combination with narrative information, that supports a finding as to whether a water body is achieving  
22 compliance with applicable water quality standards.

23 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
24 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
25 uses but threatened for a particular designated use because of:

26 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
27 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

28 (b) documented adverse pollution trends.

1 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
2 point sources and load allocations for both nonpoint sources and natural background sources established at a  
3 level necessary to achieve compliance with applicable surface water quality standards.

4 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding  
5 sewage, industrial wastes, or other wastes.

6 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
7 to one of its existing or future point sources.

8 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
9 or other management practices applied to point and nonpoint sources designed to protect, maintain, and  
10 improve the quality of state waters. Water quality protection practices include but are not limited to treatment  
11 requirements, standards of performance, effluent standards, and operating procedures and practices to control  
12 site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

13 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or  
14 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

15 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
16 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
17 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
18 an advisory capacity as provided in 75-5-704.

19 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires  
20 otherwise, in this chapter, the following definitions apply:

21 (1) "Associated supporting infrastructure" means:

22 (a) electric transmission and distribution facilities;

23 (b) pipeline facilities;

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

25 (d) rail transportation;

26 (e) aqueducts and diversion dams;

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

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

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

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

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

8 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or  
9 other wastes, creating a hazard to human health.

10 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

11 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
12 decision is made, including information supporting its previous lists of water bodies that are threatened or  
13 impaired.

14 (b) The term does not mean new data to be obtained as a result of department efforts.

15 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
16 parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant  
17 to 75-5-301(5)(c).

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

19 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and  
20 includes sewage systems and treatment works.

21 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
22 chemical, physical, biological, and other constituents that are discharged into state waters.

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

25 (i) generating electricity;

26 (ii) producing gas derived from coal;

27 (iii) producing liquid hydrocarbon products;

28 (iv) refining crude oil or natural gas;

1 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax  
2 incentive pursuant to Title 15, chapter 70, part 5; or

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

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

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

8 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971,  
9 whether or not those uses are included in the water quality standards.

10 (13) "High-quality waters" means all state waters, except:

11 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by  
12 the board's classification rules; and

13 (b) surface waters that:

14 (i) are not capable of supporting any one of the designated uses for their classification; or

15 (ii) have zero flow or surface expression for more than 270 days during most years.

16 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data  
17 shows that the water body or stream segment is failing to achieve compliance with applicable water quality  
18 standards.

19 (15) "Industrial waste" means a waste substance from the process of business or industry or from the  
20 development of any natural resource, together with any sewage that may be present.

21 (16) "Interested person" means a person who has a real property interest, a water right, or an  
22 economic interest that is or may be directly and adversely affected by the department's preliminary decision  
23 regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested  
24 authorization to degrade high-quality waters.

25 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one  
26 of its existing or future nonpoint sources or to natural background sources.

27 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a  
28 violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the

1 maximum change that can occur from the best practicable condition in a surface water without causing a  
2 violation of the surface water quality standards.

3 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
4 city-county, or district board of health.

5 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
6 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and  
7 zinc.

8 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued  
9 by the department where water quality standards may be exceeded, subject to conditions that are imposed by  
10 the department and that are consistent with the rules adopted by the board.

11 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
12 determination that base numeric nutrient standards cannot be achieved because of economic impacts or  
13 because of the limits of technology. The term includes individual, general, and alternative nutrient standards  
14 variances in accordance with 75-5-313.

15 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
16 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other  
17 interested parties that will advise the department on the base numeric nutrient standards, the development of  
18 nutrient standards variances, and the implementation of those standards and variances together with  
19 associated economic impacts.

20 (24) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,  
21 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded  
22 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

23 (25) "Outstanding resource waters" means:

24 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
25 national wilderness areas as of October 1, 1995; or

26 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316  
27 and approved by the legislature.

28 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point

1 source.

2 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
3 property affects the quality of the state water.

4 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
5 partnership, individual, or other entity and includes persons resident in Canada.

6 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited  
7 to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other  
8 floating craft, from which pollutants are or may be discharged.

9 (30) (a) "Pollution" means:

10 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters  
11 that exceeds that permitted by Montana water quality standards, including but not limited to standards relating  
12 to change in temperature, taste, color, turbidity, or odor; or

13 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
14 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
15 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other  
16 wildlife.

17 (b) The term does not include:

18 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
19 permit rules adopted by the board under this chapter;

20 (ii) activities conducted under this chapter that comply with the conditions imposed by the department  
21 in short-term authorizations pursuant to 75-5-308;

22 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in  
23 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter  
24 11, part 1;

25 (iv) contamination of ground water within the boundaries of an underground mine using in situ coal  
26 gasification and operating in accordance with a permit issued under 82-4-221;

27 (c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

28 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or

1 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
2 surface water present.

3 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
4 wastes to an ultimate disposal point.

5 (33) "Standard of performance" means a standard adopted by the board for the control of the  
6 discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of  
7 the best available demonstrated control technology, processes, operating methods, or other alternatives,  
8 including, when practicable, a standard permitting no discharge of pollutants.

9 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
10 underground.

11 (b) The term does not apply to:

12 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

13 (ii) irrigation waters or land application disposal waters when the waters are used up within the  
14 irrigation or land application disposal system and the waters are not returned to state waters.

15 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
16 combination with narrative information, that supports a finding as to whether a water body is achieving  
17 compliance with applicable water quality standards.

18 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
19 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
20 uses but threatened for a particular designated use because of:

21 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
22 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

23 (b) documented adverse pollution trends.

24 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
25 point sources and load allocations for both nonpoint sources and natural background sources established at a  
26 level necessary to achieve compliance with applicable surface water quality standards.

27 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding  
28 sewage, industrial wastes, or other wastes.

1 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
2 to one of its existing or future point sources.

3 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
4 or other management practices applied to point and nonpoint sources designed to protect, maintain, and  
5 improve the quality of state waters. Water quality protection practices include but are not limited to treatment  
6 requirements, standards of performance, effluent standards, and operating procedures and practices to control  
7 site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

8 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or  
9 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

10 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
11 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
12 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
13 an advisory capacity as provided in 75-5-704."  
14

15 **Section 61.** Section 87-2-102, MCA, is amended to read:

16 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing  
17 resident hunting, fishing, and trapping licenses, the following provisions apply:

18 (1) (a) A member of the regular armed forces of the United States, a member's spouse or dependent,  
19 as defined in ~~45-30-2115~~ subsection (1)(c), who resides in the member's household, or a member of the armed  
20 forces of a foreign government attached to the regular armed forces of the United States is considered a  
21 resident for the purposes of this chapter if:

22 (i) the member was a resident of Montana under the provisions of subsection (4) and continues to  
23 meet the residency criteria of subsections (4)(b) through (4)(e); or

24 (ii) the member is currently stationed in and assigned to active duty in Montana, has resided in  
25 Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety  
26 course approved by the department, as provided in 87-2-105, or a certificate verifying the successful  
27 completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in  
28 time of war. Reassignment to another state, United States territory, or country terminates Montana residency



1 for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's  
2 spouse and dependents continue to physically reside in Montana and the member continues to meet the  
3 residency criteria of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular  
4 armed forces as a "home of record" or "home of residence" in that member's armed forces records does not  
5 determine the member's residency for purposes of this section.

6 (b) A member of the regular armed forces of the United States who is otherwise considered a  
7 Montana resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the  
8 member, by virtue of that membership, also possesses, has applied for, or has received resident hunting,  
9 fishing, or trapping privileges in another state or country.

10 (c) The term "dependent" means any of the following individuals over half of whose support was  
11 received from the member:

12 (i) a son or daughter of the taxpayer or a descendant of either;

13 (ii) a stepson or stepdaughter of the taxpayer;

14 (iii) a brother, sister, stepbrother, or stepsister of the taxpayer;

15 (iv) the father or mother of the taxpayer or an ancestor of either;

16 (v) a stepfather or stepmother of the taxpayer;

17 (vi) a son or daughter of a brother or sister of the taxpayer;

18 (vii) a brother or sister of the father or mother of the taxpayer;

19 (viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the  
20 taxpayer;

21 (ix) an individual who, for the tax year of the taxpayer, has as the individual's principal place of abode  
22 the home of the taxpayer and is a member of the taxpayer's household; or

23 (x) an individual who:

24 (A) is a descendant of a brother or sister of the father or mother of the taxpayer;

25 (B) for the tax year of the taxpayer, received institutional care required by reason of a physical or  
26 mental disability; and

27 (C) before receiving the institutional care, was a member of the same household as the taxpayer.

28 (d) For purposes of this section:

- 1           (i) the terms "brother" and "sister" include a brother or sister by the half blood; and  
2           (ii) in determining whether any of the relationships specified in this section exist, a legally adopted child  
3           of an individual must be treated as a child of the individual by blood.

4           (2) A person who has physically resided in Montana as the person's principal or primary home or  
5           place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before  
6           making application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used  
7           in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or  
8           primary home or place of abode.

9           (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes  
10          of this section by physically residing in Montana as the person's principal or primary home or place of abode for  
11          not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any  
12          resident hunting, fishing, or trapping license.

13          (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to  
14          be considered a resident for purposes of this section:

15           (a) the person's principal or primary home or place of abode is in Montana;

16           (b) the person files Montana state income tax returns as a resident if required to file;

17           (c) the person licenses and titles in Montana as required by law any vehicles that the person owns  
18          and operates in Montana;

19           (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident  
20          hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or  
21          trapping privileges in another state or country; and

22           (e) if the person registers to vote, the person registers only in Montana.

23          (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who  
24          would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)  
25          or (3) is considered a resident for purposes of this section.

26          (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days  
27          within Montana, considered a resident for the purpose of making application for a fishing license as long as the  
28          person remains an enrollee in a Montana camp.

1 (7) A person who does not reside in Montana but who meets all of the following requirements is a  
2 resident for purposes of obtaining hunting and fishing licenses:

3 (a) The person's principal employment is within this state and the income from this employment is the  
4 principal source of the applicant's family income.

5 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper  
6 amount.

7 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive  
8 months immediately preceding each application.

9 (d) The person's state of residency has laws substantially similar to this subsection (7).

10 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,  
11 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this  
12 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides  
13 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be  
14 required to show proof of the parental, guardianship, or custodial relationship to the minor.

15 (9) A person is not considered a resident for the purposes of this section if the person:

16 (a) claims residence in any other state or country for any purpose; or

17 (b) is an absentee property owner paying property tax on property in Montana.

18 (10) A license agent is not considered a representative of the state for the purpose of determining a  
19 license applicant's residence status."

20

21 **Section 62.** Section 87-2-105, MCA, is amended to read:

22 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to  
23 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting  
24 license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the  
25 license determines proof of completion of:

26 (a) a Montana hunter safety and education course established in subsection (4) or (6);

27 (b) a hunter safety course in any other state or province; or

28 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate

1 as provided in 87-2-126.

2 (2) A hunting license may not be issued to a member of the regular armed forces of the United States  
3 or to a member of the armed forces of a foreign government attached to the armed forces of the United States  
4 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to  
5 a member's spouse or dependent, as defined in ~~15-30-2115~~ 87-2-102, who resides in the member's household,  
6 unless the person authorized to issue the license determines proof of completion of a hunter safety course  
7 approved by the department or a hunter safety course in any state or province.

8 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person  
9 authorized to issue the license receives an archery license issued for a prior hunting season or determines  
10 proof of completion of a bowhunter education course from the national bowhunter education foundation or any  
11 other bowhunter education program approved by the department. Neither the department nor the license agent  
12 is required to provide records of past archery license purchases. As part of the department's bow and arrow  
13 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

14 (4) The department shall provide for a hunter safety and education course that includes instruction in  
15 the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one  
16 of its objectives the promotion of hunter safety and education. The department may designate as an instructor  
17 any person it finds to be competent to give instructions in hunter safety and education, including the handling of  
18 firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from  
19 Montana's hunter safety and education course to a person successfully completing the course.

20 (5) The department shall provide for a course of instruction from the national bowhunter education  
21 foundation or any other bowhunter education program approved by the department and for that purpose may  
22 cooperate with any reputable organization having as one of its objectives the promotion of safety in the  
23 handling of bow hunting tackle. The department may designate as an instructor any person it finds to be  
24 competent to give bowhunter education instruction. A person appointed shall give the course of instruction and  
25 shall issue a certificate of completion to a person successfully completing the course.

26 (6) The department may develop an adult hunter safety and education course.

27 (7) The department may adopt rules regarding how a person authorized to issue a license determines  
28 proof of completion of a required course."

- 1
- 2            **NEW SECTION. Section 63. Repealer.** The following sections of the Montana Code Annotated are
- 3 repealed:
- 4 7-21-3701.     Purpose of empowerment zone.
- 5 7-21-3702.     Definitions.
- 6 7-21-3703.     Empowerment zones -- creation.
- 7 7-21-3704.     Criteria for empowerment zone.
- 8 7-21-3710.     Tax credits for employers in empowerment zone.
- 9 7-21-3715.     Rulemaking authority.
- 10 15-30-2110.    Adjusted gross income.
- 11 15-30-2111.    Nonresident and temporary resident taxpayers -- adjusted gross income.
- 12 15-30-2114.    Exemptions -- inflation adjustment.
- 13 15-30-2115.    General definition of dependent.
- 14 15-30-2116.    Additional exemption for dependent child with disability -- physician's verification.
- 15 15-30-2117.    Military salary, veterans' bonus, or death benefit -- exemptions.
- 16 15-30-2119.    Net operating loss -- computation.
- 17 15-30-2131.    Deductions allowed in computing net income.
- 18 15-30-2132.    Standard deduction.
- 19 15-30-2133.    Nondeductible items in computing net income.
- 20 15-30-2141.    Independent liability fund -- deductibility.
- 21 15-30-2142.    Income tax deduction for contribution to veterans' programs.
- 22 15-30-2143.    Deduction for contributions to child abuse and neglect prevention program.
- 23 15-30-2144.    Deposit of child abuse and neglect prevention program deductible contributions.
- 24 15-30-2152.    Computation of income of estates or trusts -- exemption.
- 25 15-30-2301.    Capital gains credit.
- 26 15-30-2319.    Credit for energy-conserving investments.
- 27 15-30-2320.    Credit for alternative fuel motor vehicle conversion.
- 28 15-30-2326.    Credit for contributions to university or college foundations and endowment funds.

- 1 15-30-2367. Tax credit for providing disability insurance for employees.
- 2 ~~15-30-2342. Credit for preservation of historic buildings.~~
- 3 15-30-2356. Empowerment zone new employees -- tax credit.
- 4 15-30-2364. Adoption tax credit -- limitations.
- 5 15-30-2366. Credit for expense of caring for certain elderly family members.
- 6 15-30-2373. Credit for dependent care assistance and referral services.
- 7 15-30-2381. Tax credit for providing emergency lodging.
- 8 15-31-131. Credit for dependent care assistance and referral services.
- 9 15-31-132. Tax credit for providing disability insurance for employees.
- 10 15-31-134. Empowerment zone new employees -- tax credit.
- 11 15-31-135. Contribution by small business corporation.
- 12 15-31-136. Contribution by partnership.
- 13 15-31-137. Small business corporation and partnership credit for alternative fuel conversion.
- 14 ~~15-31-151. Credit for preservation of historic buildings.~~
- 15 ~~15-31-163. Capital gain exclusion from sale of mobile home park.~~
- 16 15-31-171. Tax credit for providing emergency lodging.
- 17 15-32-109. Credit for energy-conserving expenditures.
- 18 15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations.
- 19 15-32-201. Amount of credit -- to whom available.
- 20 15-32-202. Taxable years in which credit may be claimed -- carryover.
- 21 15-32-203. Department to make rules.
- 22 15-32-401. Purpose and statement of policy.
- 23 15-32-402. Commercial or net metering system investment credit -- alternative energy systems.
- 24 15-32-404. Carryover of credit.
- 25 15-32-405. Exclusion from other tax incentives.
- 26 15-32-406. Separation of credit portion.
- 27 15-32-407. Rules authorized.
- 28 15-32-501. Purpose and statement of policy.

- 1 15-32-502. Definitions.
- 2 15-32-503. Exploration incentive credit.
- 3 15-32-504. Procedure for requesting and certifying credit.
- 4 15-32-505. Application of credit.
- 5 15-32-506. Credit carryover.
- 6 15-32-507. Credit limitation.
- 7 15-32-508. Credit assignment.
- 8 15-32-509. Record of credit use.
- 9 15-32-510. Deduction for donation of exploration information.
- 10 ~~15-32-601. Definitions.~~
- 11 ~~15-32-602. Amount and duration of credit -- how claimed.~~
- 12 ~~15-32-603. Credit for investment in property used to collect or process reclaimable material or to~~
- 13 ~~manufacture a product from reclaimed material.~~
- 14 ~~15-32-604. Limitation of credit.~~
- 15 ~~15-32-609. Recycled material qualifying for deduction -- purpose -- rulemaking.~~
- 16 ~~15-32-610. Deduction for purchase of recycled material.~~
- 17 ~~15-32-611. Department to make rules.~~
- 18 15-32-701. Oilseed crush facility -- tax credit.
- 19 15-32-702. Biodiesel or biolubricant production facility tax credit.
- 20 15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.
- 21 33-2-724. Empowerment zone new employees -- tax credit.

22

23 **NEW SECTION. Section 64. Transition -- carryover of credits.** A credit allowed a taxpayer prior to

24 January 1, 2022, under the provisions of law in effect prior to January 1, 2022, that may be carried forward for a

25 specified number of years is not impaired by [this act], and a taxpayer may claim the credit for the taxes

26 specified for the period established in the section at the time the credit was first allowed. This section applies to

27 all tax credits that are removed or repealed by [this act].

28

1            **NEW SECTION. Section 65. Transition.** (1) As used in this section, the following definitions apply:

2            (a) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's  
3 Montana taxable income related to transition items provided in subsection (3).

4            (b) "Transition item" means any difference arising prior to January 1, 2022, from a difference in  
5 federal and Montana income tax laws in:

6            (i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;

7            (ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense;

8 or

9            (iii) the basis of an asset or liability that will not, after December 31, 2021, increase or decrease a  
10 taxpayer's federal taxable income.

11            (2) An adjustment to Montana taxable income may not be made to take transition items into account  
12 except as provided in subsection (3).

13            (3) On or before the due date, including extensions, of a return for the tax year ending after December  
14 31, 2021, and before January 1, 2023, a taxpayer may, on forms prescribed by the department, file an election  
15 to make a transition adjustment to Montana taxable income. The election must specify and account for all  
16 transition items, including but not limited to the following:

17            (a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the  
18 Internal Revenue Code that is carried over to a tax year ending after December 31, 2021, and before January  
19 1, 2023, and if the amount of the federal carryover is not the same amount as the Montana carryover:

20            (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana  
21 carryover is smaller than the federal carryover; and

22            (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana  
23 carryover is larger than the federal carryover.

24            (b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of  
25 the Internal Revenue Code that is carried over to a tax year ending after December 31, 2021, and before  
26 January 1, 2023, and if the amount of the federal carryover is not the same amount as the Montana carryover:

27            (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana  
28 carryover is smaller than the federal carryover; and



1 (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana  
2 carryover is larger than the federal carryover.

3 (c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal  
4 return to defer income ratably because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA  
5 pursuant to section 408A(d)(3) of the Internal Revenue Code but included all the income in the taxpayer's  
6 Montana income tax return, the sum of the balance of the federal deferred amount as of January 1, 2022, is a  
7 negative adjustment to the taxpayer's Montana taxable income.

8 (d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers  
9 and net operating loss carrybacks under section 172(a) of the Internal Revenue Code in a tax year ending after  
10 December 31, 2021, and before January 1, 2023, if the taxpayer's federal net operating loss is different from  
11 the taxpayer's Montana net operating loss as of December 31, 2021, no adjustment to the taxpayer's Montana  
12 taxable income may be made.

13 (e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax  
14 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and  
15 (3)(c):

16 (i) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana  
17 adjusted basis is higher than the federal adjusted basis; and

18 (ii) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana  
19 adjusted basis is lower than the federal adjusted basis.

20 (f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax  
21 purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and  
22 (3)(c):

23 (i) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana  
24 adjusted basis is higher than the federal adjusted basis; and

25 (ii) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana  
26 adjusted basis is lower than the federal adjusted basis.

27 (g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year  
28 beginning after December 31, 2020, resulted in a reduction of Montana income tax liability, the refund is, to the

1 extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the  
2 taxpayer's Montana taxable income.

3 (4) The department of revenue is authorized to adopt rules and require facts and information to be  
4 reported that it considers necessary to administer the transition adjustment provided in this section.

5  
6 **NEW SECTION. Section 66. Codification instruction.** [Section 1] is intended to be codified as an  
7 integral part of Title 15, chapter 30, part 21, and the provisions of Title 15, chapter 30, part 21, apply to [section  
8 1].

9  
10 **NEW SECTION. Section 67. Severability.** If a part of [this act] is invalid, all valid parts that are  
11 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
12 the part remains in effect in all valid applications that are severable from the invalid applications.

13  
14 **NEW SECTION. Section 68. Effective date.** [This act] is effective January 1, 2022.

15  
16 **NEW SECTION. Section 69. Applicability.** [This act] applies to tax years beginning after December  
17 31, 2021.

18 - END -